



February 13, 2009

SENATE BILL No. 365

DIGEST OF SB 365 (Updated February 11, 2009 3:15 pm - DI 106)

Citations Affected: IC 12-24; IC 22-4.1; IC 29-3; IC 31-9; IC 31-19; IC 31-25; IC 31-27; IC 31-30; IC 31-33; IC 31-34; IC 31-35; IC 31-37; IC 35-42; IC 36-2; noncode.

Synopsis: Various department of child services matters. Repeals provisions concerning local coordinating committees. Removes information that could be included in a petition for adoption. Requires a petition for adoption that is in proper form to be forwarded to the department of child services (department). Specifies certain supervision that is a prerequisite to adoption. Strikes references to county offices of family and children. Provides that the department may publish or post on its website a list of supervising adoption agencies. Provides that licensed child placing agencies or local offices of the department will ensure that certain criminal history checks are conducted (current law requires the department to conduct the criminal history checks). Removes classifications of when a child is hard to place and requires the department to define "hard to place". Requires a court to refer a petitioner for adoption who requests financial assistance to the department. Changes the frequency the department is required to report information regarding caseloads of child protection caseworkers. Provides that a child's case plan for a child in need of services includes ensuring educational stability of the child while in foster care. Provides that the refusal of a parent, guardian, or custodian who refused to submit to a drug or alcohol screen test after the death of a child is prima facie evidence that the parent was intoxicated or under the influence of drugs or alcohol at the time of the child's death. Gives the department additional emergency rule making authority. Provides
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Effective: Upon passage; July 1, 2009.

Lawson C, Lanane

January 8, 2009, read first time and referred to Committee on Judiciary.
February 12, 2009, amended, reported favorably — Do Pass.

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that the department shall assess a report of a child who lives with a parent who is married to or lives with a person who has been convicted of a battery offense or neglect of a dependent. Provides that the department of child services (DCS) is responsible for the cost of treatment or maintenance of a child under DCS's supervision only if the costs are reimbursable under the state Medicaid program. Changes references from the family and social services administration to the department of child services. Corrects references from the county office of family and children to the local office of DCS. Changes references from caseworkers to family case managers. Changes references from child abuse "investigations" to child abuse "assessments." Provides that the department shall assess a report of a child who lives with a parent who is married to or lives with a person who is required to register as a sex offender. Removes a requirement that the probation department complete a child's case plan not more than 60 days after the date of the dispositional decree. Requires the probation department to create a case plan if a decree is modified. Removes a requirement for a probation officer to include certain information in a predispositional report for DCS to determine if a child is eligible for certain government assistance. Removes the requirement that the bureau of child support demonstrate that all previous enforcement actions have been unsuccessful before sending an obligor a notice that the obligor is delinquent. Provides that a petition alleging that a child taken into custody is a child in need of services (CHINS) shall be filed before the detention hearing. Requires the initial hearing on the CHINS petition to be held at the same time as the detention hearing. Allows the department to adopt emergency rules in certain circumstances. Provides that if an adult is with a child before the child's death, and the adult refused to submit to a drug or alcohol screen test within eight hours of the child's death, the refusal to submit to the screen test is prima facie evidence that the adult was intoxicated or under the influence of alcohol or drugs at the time of the fatality. Enhances battery to a Class D felony if the victim suffers bodily injury and is a DCS employee. Adds employees of DCS to the list of persons covered by the statute making battery by bodily waste a Class D felony. Requires a coroner to notify the local office of DCS of the death of a person who is less than 18 years of age. Requires DCS, in cooperation with the state department of education, to develop and coordinate the education advocates for children in foster care plan. Authorizes a probation department and the county office of family and children, a local office, and the department of child services to exchange information for use in preparing certain reports concerning a child. Prohibits a court from appointing a person to serve as a guardian or to continue to serve as a guardian if the person committed certain sex offenses. Prohibits a court or juvenile court from permitting a person to serve as a guardian or custodian if the person was convicted as an adult of certain sex offenses that the person committed when the person was less than 18 years of age. Makes conforming changes.

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February 13, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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SENATE BILL No. 365

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-24-13-6, AS AMENDED BY P.L.146-2008,
- 2 SECTION 416, IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2009]: Sec. 6. The department of child services
- 4 is responsible for the cost of treatment or maintenance of a child under
- 5 the department's custody or supervision who is placed ~~by or with the~~
- 6 ~~consent of the department of child services~~ in a state institution **only if**
- 7 **the cost is reimbursable under the state Medicaid program under**
- 8 **IC 12-15.**
- 9 SECTION 2. IC 22-4.1-4-2 IS AMENDED TO READ AS
- 10 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) This section
- 11 applies only to an employer who employs individuals within the state.
- 12 (b) As used in this section, "date of hire" is the first date that an
- 13 employee provides labor or services to an employer.
- 14 (c) As used in this section, "employee":
- 15 (1) has the meaning set forth in Chapter 24 of the Internal

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Revenue Code of 1986; and

(2) includes any individual:

(A) required under Internal Revenue Service regulations to complete a federal form W-4; and

(B) who has provided services to an employer.

The term does not include an employee of a federal or state agency who performs intelligence or counter intelligence functions if the head of the agency determines that the reporting information required under this section could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(d) As used in this section, "employer" has the meaning set forth in Section 3401(d) of the Internal Revenue Code of 1986. The term includes:

(1) governmental agencies and labor organizations; and

(2) a person doing business in the state as identified by:

(A) the person's federal employer identification number; or

(B) if applicable, the common paymaster, as defined in Section 3121 of the Internal Revenue Code or the payroll reporting agent of the employer, as described in IRS Rev. Proc. 70-6, 1970-1, C.B. 420.

(e) As used in this section, "labor organization" has the meaning set forth in 42 U.S.C. 653A(a)(2)(B)(ii).

(f) The department shall maintain the Indiana directory of new hires as required under 42 U.S.C. 653A.

(g) The directory under subsection (f) must contain information that an employer must provide to the department for each newly hired employee as follows:

(1) The information must be transmitted within twenty (20) business days of the employee's date of hire.

(2) If an employer transmits reports under this section magnetically or electronically, the information must be transmitted in two (2) monthly transactions that are:

(A) not less than twelve (12) days apart; and

(B) not more than sixteen (16) days apart.

If mailed, the report is considered timely if it is postmarked on or before the due date. If the report is transmitted by facsimile machine or by using electronic or magnetic media, the report is considered timely if it is received on or before the due date.

(h) The employer shall provide the information required under this section on an employee's withholding allowance certificate (Internal Revenue Service form W-4) or, at the employer's option, an equivalent form. The report may be transmitted to the department by first class

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mail, by facsimile machine, electronically, or magnetically. The report must include at least the following:

- (1) The name, address, and Social Security number of the employee.
- (2) The name, address, and federal tax identification number of the employer.
- (3) The date of hire of the employee.

(i) An employer that has employees in two (2) or more states and that transmits reports under this section electronically or magnetically may comply with this section by doing the following:

- (1) Designating one (1) state to receive each report.
- (2) Notifying the Secretary of the United States Department of Health and Human Services which state will receive the reports.
- (3) Transmitting the reports to the agency in the designated state that is charged with receiving the reports.

(j) The department may impose a civil penalty of five hundred dollars (\$500) on an employer that fails to comply with this section if the failure is a result of a conspiracy between the employer and the employee to:

- (1) not provide the required report; or
- (2) provide a false or an incomplete report.

(k) The information received from an employer regarding newly hired employees shall be:

- (1) entered into the state's new hire directory within five (5) business days of receipt; and
- (2) forwarded to the national directory of new hires within three (3) business days after entry into the state's new hire directory.

The state shall use quality control standards established by the Administrators of the National Directory of New Hires.

(l) The information contained in the Indiana directory of new hires is available only for use by the department and the office of the secretary of family and social services for purposes required by 42 U.S.C. 653A, unless otherwise provided by law.

(m) ~~The office of the secretary of family and social services~~ **department of child services** shall reimburse the department for any costs incurred in carrying out this section.

(n) ~~The office of the secretary of family and social services~~ **department of child services** and the department shall enter into a purchase of service agreement that establishes procedures necessary to administer this section.

SECTION 3. IC 29-3-7-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: **Sec. 7. A court may not appoint a person to serve as the guardian or permit a person to continue to serve as a guardian if the person:**

(1) is a sexually violent predator (as described in IC 35-38-1-7.5);

(2) was at least eighteen (18) years of age at the time of the offense and was convicted of child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;

(B) while armed with a deadly weapon; or

(C) that resulted in serious bodily injury; or

(3) was less than eighteen (18) years of age at the time of the offense and was convicted as an adult of:

(A) an offense described in:

(i) IC 35-42-4-1;

(ii) IC 35-42-4-2;

(iii) IC 35-42-4-3 as a Class A or Class B felony;

(iv) IC 35-42-4-5(a)(1);

(v) IC 35-42-4-5(a)(2);

(vi) IC 35-42-4-5(a)(3);

(vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(viii) IC 35-42-4-5(b)(2); or

(ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;

(B) an attempt or conspiracy to commit a crime listed in clause (A); or

(C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B).

SECTION 4. IC 31-9-2-43.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 43.2. "Drug or alcohol screen test" means a test is used to determine the presence or use of alcohol, a controlled substance, or a drug in a person's bodily substance.**

SECTION 5. IC 31-9-2-58.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 58.5. "Indicated", for purposes of IC 31-33-8-12, means facts obtained during an investigation assessment of suspected child abuse or neglect that:**

(1) provide:

(A) significant indications that a child may be at risk for abuse or neglect; or

(B) evidence that abuse or neglect previously occurred; and

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(2) cannot be classified as substantiated or unsubstantiated.

SECTION 6. IC 31-9-2-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 107. **(a)** "Relative", for purposes of IC 31-19-18, means:

- (1) an adoptive or whole blood related parent;
- (2) a sibling; or
- (3) a child.

(b) "Relative", for purposes of IC 31-34-3, means:

- (1) a maternal or paternal grandparent;**
- (2) an adult aunt or uncle; or**
- (3) any adult relative suggested by the parent of a child.**

SECTION 7. IC 31-9-2-123, AS AMENDED BY P.L.146-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 123. "Substantiated", when used in reference to a child abuse or neglect report made under IC 31-33, means a determination regarding the status of the report whenever facts obtained during an ~~investigation~~ **assessment** of the report provide a preponderance of evidence that child abuse or neglect has occurred.

SECTION 8. IC 31-9-2-132 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 132. "Unsubstantiated", for purposes of IC 31-33 and IC 31-39-8-4, means a determination regarding the status of a report made under IC 31-33 whenever facts obtained during an ~~investigation~~ **assessment** of the report provide credible evidence that child abuse or neglect has not occurred.

SECTION 9. IC 31-19-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A petition for adoption must specify the following:

- (1) The:
 - (A) name if known;
 - (B) sex, race, and age if known, or if unknown, the approximate age; and
 - (C) place of birth;
 of the child sought to be adopted.
- (2) The new name to be given the child if a change of name is desired.
- (3) Whether or not the child possesses real or personal property and, if so, the value and full description of the property.
- (4) The:
 - (A) name, age, and place of residence of a petitioner for adoption; and
 - (B) if married, place and date of their marriage.
- (5) The name and place of residence, if known to the petitioner

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for adoption, of:

- (A) the parent or parents of the child;
 - (B) if the child is an orphan:
 - (i) the guardian; or
 - (ii) the nearest kin of the child if the child does not have a guardian;
 - (C) the court or agency of which the child is a ward if the child is a ward; or
 - (D) the agency sponsoring the adoption if there is a sponsor.
 - (6) The time, if any, during which the child lived in the home of the petitioner for adoption.
 - (7) Whether the petitioner for adoption has been convicted of:
 - (A) a felony; or
 - (B) a misdemeanor relating to the health and safety of children;
- and, if so, the date and description of the conviction.
- (8) Additional information consistent with the purpose and provisions of this article that is considered relevant to the proceedings. ~~including whether:~~

- ~~(A) a petitioner for adoption is seeking aid; and~~
- ~~(B) the willingness of the petitioner for adoption to proceed with the adoption is conditioned on obtaining aid.~~

SECTION 10. IC 31-19-2-12, AS AMENDED BY P.L.146-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. As soon as a petition for adoption is found to be in proper form, the clerk of the court shall forward one (1) copy of the petition for adoption to:

- (1) a licensed child placing agency as described in IC 31-19-7-1, with preference to be given to the agency, if any, sponsoring the adoption, as shown by the petition for adoption; and
- (2) ~~the county office of family and children whenever a subsidy is requested in a petition for adoption sponsored by a licensed child placing agency.~~ **department.**

SECTION 11. IC 31-19-8-1, AS AMENDED BY P.L.138-2007, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. An adoption may be granted in Indiana only after:

- (1) the court has heard the evidence; and
- (2) except as provided in section 2(c) of this chapter, a period of supervision, as described in section 2 of this chapter, by a licensed child placing agency **for a child who has not been adjudicated to be a child in need of services, or, if the child is**

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1 **the subject of an open child in need of services action, county**
 2 **office of family and children the local office** approved for that
 3 **purpose by of** the department.

4 SECTION 12. IC 31-19-8-3, AS AMENDED BY P.L.145-2006,
 5 SECTION 249, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The department shall
 7 annually compile a list of

- 8 ~~(1) licensed child placing agencies and~~
 9 ~~(2) county offices of family and children;~~

10 that conduct the inspection and supervision required for adoption of a
 11 child by IC 31-19-7-1 and section 1 of this chapter.

12 (b) The list of licensed child placing agencies ~~and county offices of~~
 13 ~~family and children~~ must include a description of the following:

- 14 (1) Fees charged by each agency. ~~and county office of family and~~
 15 ~~children.~~
 16 (2) Geographic area served by each agency. ~~and county office of~~
 17 ~~family and children.~~
 18 (3) Approximate waiting period for the inspection or supervision
 19 by each **licensed child placing** agency. ~~and county office of~~
 20 ~~family and children.~~
 21 (4) Other relevant information regarding the inspection and
 22 supervision provided by ~~an a licensed child placing agency or a~~
 23 **county office of family and children** under IC 31-19-7-1 and
 24 section 1 of this chapter.

25 (c) The department shall do the following:

- 26 (1) Maintain in its office **or on its website** sufficient copies of the
 27 list compiled under this section for distribution to individuals who
 28 request a copy.
 29 (2) Provide the following persons with sufficient copies of the list
 30 prepared under this section for distribution to individuals who
 31 request a copy:

32 (A) Each clerk of a court having probate jurisdiction in a
 33 county.

34 (B) Each ~~county office of family and children.~~ **local office.**

35 ~~(3) Provide a copy of the list to each public library organized~~
 36 ~~under IC 36-12.~~

37 (d) The department ~~and each:~~

- 38 ~~(1) county office of family and children;~~
 39 ~~(2) clerk of a court having probate jurisdiction in a county; and~~
 40 ~~(3) public library organized under IC 36-12;~~

41 shall make the list compiled under this section available for public
 42 inspection.

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SECTION 13. IC 31-19-8-4, AS AMENDED BY P.L.145-2006, SECTION 250, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. To facilitate adoption proceedings, the department shall:

(1) publish;

(2) post on its web site; or

(3) furnish to clerks of Indiana courts having probate jurisdiction; a list of approved supervising agencies.

SECTION 14. IC 31-19-8-5, AS AMENDED BY P.L.138-2007, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided in subsection (c), not more than sixty (60) days from the date of reference of a petition for adoption to each appropriate agency, each ~~agency or the county office of family and children~~ **licensed child placing agency for a child who is not adjudicated to be a child in need of services, or, if the child is the subject of an open child in need of services action, each local office of the department**, shall submit to the court a written report of the investigation and recommendation as to the advisability of the adoption.

(b) The ~~agency's or county office of family and children's~~ report and recommendation:

(1) shall be filed with the adoption proceedings; and

(2) become a part of the proceedings.

(c) A court hearing a petition for adoption of a child

~~(1)~~ may waive the report required under subsection (a) if one (1) of the petitioners is a stepparent or grandparent of the child and the court waives the period of supervision. ~~under section 2(c) of this chapter; and~~

~~(2)~~ may require the county office of family and children or a child placing agency to:

~~(A)~~ investigate any matter related to an adoption; and

~~(B)~~ report to the court the results of the investigation.

(d) If the court waives the reports required under subsection (a), the court shall require the ~~county office of family and children~~ **licensed child placing agency for a child who is not adjudicated to be a child in need of services, or, if the child is the subject of an open child in need of services action, each local office of the department, or a child placing agency** to:

(1) ~~conduct~~ **ensure** a criminal history check **is conducted** under IC 31-19-2-7.5; and

(2) report to the court the results of the criminal history check.

SECTION 15. IC 31-19-8-6, AS AMENDED BY P.L.138-2007,

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SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The ~~agency's or county office of family and children's~~ report must, to the extent possible, include the following:

- (1) The former environment and antecedents of the child.
- (2) The fitness of the child for adoption.
- (3) Whether the child is classified as hard to place, **as defined by the department.**

~~(A) because of the child's ethnic background, race, color, language, physical, mental, or medical disability, or age, or~~

~~(B) because the child is a member of a sibling group that should be placed in the same home.~~

- (4) The suitability of the proposed home for the child.

(b) The report may not contain any of the following:

- (1) Information concerning the financial condition of the **adoptive** parents.

- (2) A recommendation that a request for a subsidy be denied in whole or in part due to the financial condition of the **adoptive** parents.

(c) The criminal history information required under IC 31-19-2-7.5 must accompany the report.

SECTION 16. IC 31-19-8-7, AS AMENDED BY P.L.138-2007, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. The court shall summarily consider the ~~agency's or county office of family and children's~~ report. If the court finds that further investigation or further supervision is necessary, the court shall continue the case to a later date that the court considers advisable for final determination. At that time the court shall determine the case.

SECTION 17. IC 31-19-8-8, AS AMENDED BY P.L.138-2007, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. The report and recommendation of the **licensed child placing** agency or ~~county office of family and children~~ **local office of the department** are not binding on the court but are advisory only.

SECTION 18. IC 31-19-11-3, AS AMENDED BY P.L.146-2008, SECTION 561, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) If the petition for adoption contained a request for financial assistance, the court shall refer the ~~petition~~ **petitioner** to the department **to complete and submit to the department the Indiana Adoption Program application** for a determination of eligibility for:

- (1) adoption assistance under 42 U.S.C. 673, including applicable federal and state regulations; or

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(2) an adoption subsidy under IC 31-19-26.5.

(b) The department shall determine the eligibility of the adoptive child for financial assistance and the amount of assistance, if any, that will be provided.

(c) The court may not order payment of:

(1) adoption assistance under 42 U.S.C. 673; or

(2) any adoption subsidy under IC 31-19-26.5.

SECTION 19. IC 31-19-17-2, AS AMENDED BY P.L.129-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A person, a licensed child placing agency, or a **county local** office ~~of family and children~~ placing a child for adoption shall prepare a report summarizing the available medical, psychological, and educational records of the person or agency concerning the birth parents. The person, agency, or **county local** office shall exclude from this report information that would identify the birth parents. The person, agency, or **county local** office shall give the report to:

(1) the adoptive parents:

(A) at the time the home study or evaluation concerning the suitability of the proposed home for the child is commenced; or

(B) with the consent of the adoptive parents, not more than thirty (30) days after the child is placed with the adoptive parents; and

(2) upon request, an adoptee who:

(A) is at least twenty-one (21) years of age; and

(B) provides proof of identification.

SECTION 20. IC 31-19-17-3, AS AMENDED BY P.L.1-2006, SECTION 497, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The person, licensed child placing agency, or **county local** office ~~of family and children~~ shall:

(1) exclude information that would identify the birth parents; and

(2) release all available social, medical, psychological, and educational records concerning the child to:

(A) the adoptive parent; and

(B) upon request, an adoptee who:

(i) is at least twenty-one (21) years of age; and

(ii) provides proof of identification.

SECTION 21. IC 31-19-17-4, AS AMENDED BY P.L.1-2006, SECTION 498, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The person, licensed child placing agency, or **county local** office ~~of family and children~~ shall

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provide:

- (1) the adoptive parent; and
- (2) upon request, an adoptee who:
 - (A) is at least twenty-one (21) years of age; and
 - (B) provides proof of identification;

with a summary of other existing social, medical, psychological, and educational records concerning the child of which the person, agency, or **county local** office has knowledge but does not have possession. If requested by an adoptive parent or an adoptee, the person, agency, or **county local** office shall attempt to provide the adoptive parent or the adoptee with a copy of any social, medical, psychological, or educational record that is not in the possession of the person, agency, or **county local** office, after identifying information has been excluded.

SECTION 22. IC 31-19-17-5, AS AMENDED BY P.L.1-2006, SECTION 499, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) This section applies to an adoption that is granted before July 1, 1993.

(b) Upon the request of an adoptee who:

- (1) is at least twenty-one (21) years of age; and
- (2) provides proof of identification;

a person, a licensed child placing agency, or a **county local** office of **family and children** shall provide to the adoptee available information of social, medical, psychological, and educational records and reports concerning the adoptee. The person, licensed child placing agency, or **county local** office of **family and children** shall exclude from the records information that would identify the birth parents.

SECTION 23. IC 31-25-2-4, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. One (1) time every ~~three (3)~~ **twelve (12)** months, the department shall submit a report to the budget committee and to the legislative council that provides data and statistical information regarding caseloads of ~~child protection caseworkers~~ **family case managers**. The report made to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 24. IC 31-25-2-6, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The report required under section 4 of this chapter must do the following:

- (1) Indicate the department's progress in recruiting, training, and retaining ~~caseworkers~~ **family case managers**.
- (2) Describe the methodology used to compute caseloads for each ~~child protection caseworker~~ **family case manager**.

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(3) Indicate whether the statewide average caseloads for ~~child protection caseworkers~~ **family case managers** exceed the caseload standards established by the department.

(4) If the report indicates that average caseloads exceed caseload standards, include a written plan that indicates the steps that are being taken to reduce caseloads.

(5) Identify, describe, and, if appropriate, recommend best management practices and resources required to achieve effective and efficient delivery of child protection services.

SECTION 25. IC 31-25-2-8, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. **(a)** The department is the single state agency responsible for administering the following:

(1) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.

(2) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.

(3) The federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106 et seq.

(4) The federal Social Services Block Grant under 42 U.S.C. 1397 et seq.

(5) Any other federal program that provides funds to states for services related to the prevention of child abuse and neglect, child welfare services, foster care, independent living, or adoption services.

(b) This subsection applies beginning October 1, 2009. Pursuant to 42 U.S.C. 671(a)(32), the department shall negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the state that requests to develop an agreement with the state to administer all or part of Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq., on behalf of Indian children who are under the authority of the tribe, tribal organization, or tribal consortium.

SECTION 26. IC 31-25-2-9, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The department:

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the department

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1 regarding the legal duties of the representatives in carrying out the
 2 responsibility of the department under section 7 of this chapter,
 3 which may consist of various methods of informing the
 4 representatives of their duties, in order to protect the legal rights
 5 and safety of children and families from the initial time of contact
 6 during the investigation through treatment; and

7 (4) must provide training to representatives of the child protection
 8 services system regarding the constitutional rights of the child's
 9 family, including a child's guardian or custodian, that is the
 10 subject of an ~~investigation~~ **assessment** of child abuse or neglect
 11 consistent with the Fourth Amendment to the United States
 12 Constitution and Article ~~I~~, **1**, Section 11 of the Constitution of the
 13 State of Indiana.

14 (b) This section expires June 30, 2008.

15 SECTION 27. IC 31-25-2-10, AS ADDED BY P.L.145-2006,
 16 SECTION 271, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) This section applies after
 18 June 30, 2008.

19 (b) The department of child services:

20 (1) must have sufficient qualified and trained staff to:

21 (A) fulfill the purpose of this article;

22 (B) comply with the maximum caseload ratios for:

23 (i) ~~child protection caseworkers;~~ **family case managers;**

24 and

25 (ii) child welfare caseworkers;

26 as set forth in IC 31-25-2-5;

27 (2) must be organized to maximize the continuity of
 28 responsibility, care, and service of individual ~~caseworkers~~ **family**
 29 **case managers** toward individual children and families;

30 (3) must provide training to representatives of the department
 31 regarding the legal duties of the representatives in carrying out the
 32 responsibility of the department under section 7 of this chapter,
 33 which may consist of various methods of informing the
 34 representatives of their duties, in order to protect the legal rights
 35 and safety of children and families from the initial time of contact
 36 during the investigation through treatment; and

37 (4) must provide training to representatives of the child protection
 38 services system regarding the constitutional rights of the child's
 39 family, including a child's guardian or custodian, that is the
 40 subject of an ~~investigation~~ **assessment** of child abuse or neglect
 41 consistent with the Fourth Amendment to the United States
 42 Constitution and Article ~~I~~, **1**, Section 11 of the Constitution of the

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1 State of Indiana.

2 SECTION 28. IC 31-25-2-11, AS ADDED BY P.L.145-2006,
3 SECTION 271, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) Except in cases involving a
5 child who may be a victim of institutional abuse or cases in which
6 police investigation also appears appropriate, the department is the
7 primary public agency responsible for:

8 (1) receiving;

9 (2) ~~investigating assessing~~ or arranging for ~~investigation;~~
10 ~~assessment of;~~ and

11 (3) coordinating ~~the assessment of;~~

12 ~~the investigation of~~ all reports of a child who may be a victim of known
13 or suspected child abuse or neglect.

14 (b) In accordance with a local plan for child protection services, the
15 department shall, by juvenile court order:

16 (1) provide protection services to prevent cases where a child may
17 be a victim of further child abuse or neglect; and

18 (2) provide for or arrange for and coordinate and monitor the
19 provision of the services necessary to ensure the safety of
20 children.

21 (c) Reasonable efforts must be made to provide family services
22 designed to prevent a child's removal from the child's parent, guardian,
23 or custodian.

24 SECTION 29. IC 31-25-2-20.4, AS ADDED BY P.L.138-2007,
25 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2009]: Sec. 20.4. (a) The department shall establish at least
27 three (3) citizen review panels in accordance with the requirements of
28 the federal Child Abuse Prevention and Treatment Act under 42 U.S.C.
29 5106a.

30 (b) A citizen review panel consists of volunteer members who
31 broadly represent the community in which the panel is established,
32 including members who have expertise in the prevention and treatment
33 of child abuse and neglect.

34 (c) The department shall appoint the citizen review panels in the
35 following manner:

36 (1) One (1) panel must be a community child protection team
37 established in a county under IC 31-33-3-1, selected by the
38 director of the department with the consent of the team.

39 (2) One (1) panel must be either:

40 (A) the statewide child fatality review committee established
41 under IC 31-33-25-6; or

42 (B) a local child fatality review team established under

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1 IC 31-33-24-6;
 2 selected by the director of the department with the consent of the
 3 committee or team.
 4 (3) One (1) panel must be a foster care advisory panel consisting
 5 of at least five (5) and not more than eleven (11) members,
 6 selected to the extent feasible from the membership of any foster
 7 care advisory group previously established or recognized by the
 8 department. If the panel consists of seven (7) or fewer members,
 9 the panel must include at least one (1) foster parent licensed by
 10 the department through a ~~county~~ **local** office and one (1) foster
 11 parent licensed by the department through a child placing agency
 12 licensed under IC 31-27-6. If the panel consists of more than
 13 seven (7) members, the panel must include two (2) foster parents
 14 licensed by the department through a ~~county~~ **local** office and two
 15 (2) foster parents licensed by the department through a child
 16 placing agency licensed under IC 31-27-6. Additional members
 17 of the panel must include one (1) or more individuals who are
 18 employed by a child placing agency licensed under IC 31-27-6
 19 and who provide services to foster families and children placed by
 20 the department in out-of-home placements, and may include other
 21 representatives of child welfare service providers or persons who
 22 provide training to current or prospective foster parents. All
 23 members of this panel must be individuals who are not employees
 24 of the department.
 25 (4) The membership of any additional citizen review panels
 26 established under this section shall be determined by the director
 27 of the department, consistent with the guidelines for panel
 28 membership stated in subsection (b) and the purposes and
 29 functions of the panels as described in this section.
 30 (5) Each citizen review panel shall be appointed for a term of
 31 three (3) years beginning July 1, 2007. Upon expiration of the
 32 term of the panel described in subdivision (1), the director of the
 33 department shall select a community child protection team
 34 established in a different county for the succeeding term. Upon
 35 expiration of the term of the panel described in subdivision (2),
 36 the director of the department shall select a different fatality
 37 review team, or committee, if available, for the succeeding term.
 38 Panels appointed under subdivision (3) or (4) may be reappointed
 39 for successive terms, in the discretion of the director of the
 40 department. The director may appoint individuals as needed to fill
 41 vacancies that occur during the term of any panel appointed under
 42 subdivision (3) or (4).

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(d) A citizen review panel shall evaluate the extent to which a child welfare agency is effectively discharging the agency's child protection responsibilities by examining:

- (1) the policies and procedures of child welfare agencies;
- (2) if appropriate, specific child protective services cases; and
- (3) other criteria the citizen review panel considers important to ensure the protection of children.

(e) Each citizen review panel shall:

- (1) meet at least one (1) time every three (3) months; and
- (2) prepare and make available to the department and the public an annual report that contains a summary of the activities of the citizen review panel.

(f) The department shall, not more than six (6) months after the date the department receives a report from a citizen review panel under subsection (e), submit to the citizen review panel a written response indicating whether and how the department will incorporate the recommendations of the citizen review panel. The department shall at the same time provide appropriate child welfare agencies with copies of the department's written response.

(g) A child welfare agency shall make all reports and other materials in the child welfare agency's possession available to a citizen review panel established under this section, including any reports and materials that the child welfare agency has received from other agencies.

(h) A member of a citizen review panel may not disclose to a person or government official any identifying information that is provided to the citizen review panel about:

- (1) a specific child protective services case or child welfare agency case;
- (2) a child or member of the child's family who is the subject of a child protective services ~~investigation~~; **assessment**; or
- (3) any other individuals identified in confidential reports, documents, or other materials.

(i) If a member of a citizen review panel violates subsection (h), the department may remove the member from the citizen review panel.

(j) A child welfare agency shall cooperate and work with each citizen review panel established under this section.

SECTION 30. IC 31-25-2-21, AS ADDED BY P.L.143-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) As used in this section, "transitional services plan" means a plan that provides information concerning the following to an individual described in subsection (b):

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- (1) Education.
- (2) Employment.
- (3) Housing.
- (4) Health care.
- (5) Development of problem solving skills.
- (6) Available local, state, and federal financial assistance.

(b) The department shall implement a program that provides a transitional services plan to the following:

- (1) An individual who has become or will become:

- (A) eighteen (18) years of age; or

- (B) emancipated;

while receiving foster care.

- (2) An individual who:

- (A) is at least eighteen (18) but less than twenty-one (21) years of age; and

- (B) is receiving foster care for older youth under IC 31-28-5.7.

(c) The department shall adopt rules under IC 4-22-2, **including emergency rules under IC 4-22-2-37.1** necessary to implement the program described in this section.

SECTION 31. IC 31-25-4-32, AS AMENDED BY P.L.103-2007, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 32. (a) When the Title IV-D agency finds that an obligor is delinquent, ~~and can demonstrate that all previous enforcement actions have been unsuccessful;~~ the Title IV-D agency shall send, to a verified address, a notice to the obligor that does the following:

- (1) Specifies that the obligor is delinquent.

- (2) Describes the amount of child support that the obligor is in arrears.

- (3) States that unless the obligor:

- (A) pays the obligor's child support arrearage in full;

- (B) establishes a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order; or

- (C) requests a hearing under section 33 of this chapter;

within twenty (20) days after the date the notice is mailed, the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent and that the obligor's driving privileges shall be suspended.

- (4) Explains that the obligor has twenty (20) days after the notice is mailed to do one (1) of the following:

- (A) Pay the obligor's child support arrearage in full.

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- 1 (B) Establish a payment plan with the Title IV-D agency to
 2 pay the arrearage, which includes an income withholding order
 3 under IC 31-16-15-2 or IC 31-16-15-2.5.
- 4 (C) Request a hearing under section 33 of this chapter.
- 5 (5) Explains that if the obligor has not satisfied any of the
 6 requirements of subdivision (4) within twenty (20) days after the
 7 notice is mailed, that the Title IV-D agency shall issue a notice to:
- 8 (A) the board or department that regulates the obligor's
 9 profession or occupation, if any, that the obligor is delinquent
 10 and that the obligor may be subject to sanctions under
 11 IC 25-1-1.2, including suspension or revocation of the
 12 obligor's professional or occupational license;
- 13 (B) the supreme court disciplinary commission if the obligor
 14 is licensed to practice law;
- 15 (C) the department of education established by IC 20-19-3-1
 16 if the obligor is a licensed teacher;
- 17 (D) the Indiana horse racing commission if the obligor holds
 18 or applies for a license issued under IC 4-31-6;
- 19 (E) the Indiana gaming commission if the obligor holds or
 20 applies for a license issued under IC 4-33;
- 21 (F) the commissioner of the department of insurance if the
 22 obligor holds or is an applicant for a license issued under
 23 IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3; or
- 24 (G) the director of the department of natural resources if the
 25 obligor holds or is an applicant for a license issued by the
 26 department of natural resources under the following:
- 27 (i) IC 14-22-12 (fishing, hunting, and trapping licenses).
 28 (ii) IC 14-22-14 (Lake Michigan commercial fishing
 29 license).
 30 (iii) IC 14-22-16 (bait dealer's license).
 31 (iv) IC 14-22-17 (mussel license).
 32 (v) IC 14-22-19 (fur buyer's license).
 33 (vi) IC 14-24-7 (nursery dealer's license).
 34 (vii) IC 14-31-3 (ginseng dealer's license).
- 35 (6) Explains that the only basis for contesting the issuance of an
 36 order under subdivision (3) or (5) is a mistake of fact.
- 37 (7) Explains that an obligor may contest the Title IV-D agency's
 38 determination to issue an order under subdivision (3) or (5) by
 39 making written application to the Title IV-D agency within twenty
 40 (20) days after the date the notice is mailed.
- 41 (8) Explains the procedures to:
- 42 (A) pay the obligor's child support arrearage in full; and

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- 1 (B) establish a payment plan with the Title IV-D agency to pay
 2 the arrearage, which must include an income withholding
 3 order under IC 31-16-15-2 or IC 31-16-15-2.5.
- 4 (b) Whenever the Title IV-D agency finds that an obligor is
 5 delinquent and has failed to:
- 6 (1) pay the obligor's child support arrearage in full;
 7 (2) establish a payment plan with the Title IV-D agency to pay the
 8 arrearage, which includes an income withholding order under
 9 IC 31-16-15-2 or IC 31-16-15-2.5; or
 10 (3) request a hearing under section 33 of this chapter within
 11 twenty (20) days after the date the notice described in subsection
 12 (a) is mailed;
- 13 the Title IV-D agency shall issue an order to the bureau of motor
 14 vehicles stating that the obligor is delinquent.
- 15 (c) An order issued under subsection (b) must require the following:
- 16 (1) If the obligor who is the subject of the order holds a driving
 17 license or permit on the date the order is issued, that the driving
 18 privileges of the obligor be suspended until further order of the
 19 Title IV-D agency.
 20 (2) If the obligor who is the subject of the order does not hold a
 21 driving license or permit on the date the order is issued, that the
 22 bureau of motor vehicles may not issue a driving license or permit
 23 to the obligor until the bureau of motor vehicles receives a further
 24 order from the Title IV-D agency.
- 25 (d) The Title IV-D agency shall provide the:
- 26 (1) full name;
 27 (2) date of birth;
 28 (3) verified address; and
 29 (4) Social Security number or driving license number;
 30 of the obligor to the bureau of motor vehicles.
- 31 (e) Whenever the Title IV-D agency finds that an obligor who is an
 32 applicant (as defined in IC 25-1-1.2-1) or a practitioner (as defined in
 33 IC 25-1-1.2-6) is delinquent and the applicant or practitioner has failed
 34 to:
- 35 (1) pay the obligor's child support arrearage in full;
 36 (2) establish a payment plan with the Title IV-D agency to pay the
 37 arrearage, which includes an income withholding order under
 38 IC 31-16-15-2 or IC 31-16-15-2.5; or
 39 (3) request a hearing under section 33 of this chapter;
- 40 the Title IV-D agency shall issue an order to the board regulating the
 41 practice of the obligor's profession or occupation stating that the
 42 obligor is delinquent.

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(f) An order issued under subsection (e) must direct the board or department regulating the obligor's profession or occupation to impose the appropriate sanctions described under IC 25-1-1.2.

(g) Whenever the Title IV-D agency finds that an obligor who is an attorney or a licensed teacher is delinquent and the attorney or licensed teacher has failed to:

- (1) pay the obligor's child support arrearage in full;
- (2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or
- (3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall notify the supreme court disciplinary commission if the obligor is an attorney, or the department of education if the obligor is a licensed teacher, that the obligor is delinquent.

(h) Whenever the Title IV-D agency finds that an obligor who holds a license issued under IC 4-31-6 or IC 4-33 has failed to:

- (1) pay the obligor's child support arrearage in full;
- (2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or
- (3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the Indiana horse racing commission if the obligor holds a license issued under IC 4-31-6, or to the Indiana gaming commission if the obligor holds a license issued under IC 4-33, stating that the obligor is delinquent and directing the commission to impose the appropriate sanctions described in IC 4-31-6-11 or IC 4-33-8.5-3.

(i) Whenever the Title IV-D agency finds that an obligor who holds a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 has failed to:

- (1) pay the obligor's child support arrearage in full;
- (2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or
- (3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the commissioner of the department of insurance stating that the obligor is delinquent and directing the commissioner to impose the appropriate sanctions described in IC 27-1-15.6-29 or IC 27-10-3-20.

(j) Whenever the Title IV-D agency finds that an obligor who holds a license issued by the department of natural resources under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19,

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IC 14-24-7, or IC 14-31-3 has failed to:

- (1) pay the obligor's child support arrearage in full;
- (2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or
- (3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the director of the department of natural resources stating that the obligor is delinquent and directing the director to suspend or revoke a license issued to the obligor by the department of natural resources as provided in IC 14-11-3.

SECTION 32. IC 31-27-2-4, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The department shall adopt rules under IC 4-22-2, **including emergency rules under IC 4-22-2-37.1**, concerning the licensing and inspection of child caring institutions, foster family homes, group homes, and child placing agencies after consultation with the following:

- (1) State department of health.
- (2) Fire prevention and building safety commission.

(b) The rules adopted under subsection (a) shall be applied by the department and state fire marshal in the licensing and inspection of applicants for a license and licensees under this article.

(c) The rules adopted under IC 4-22-2 must establish minimum standards for the care and treatment of children in a secure private facility.

(d) The rules described in subsection (c) must include standards governing the following:

- (1) Admission criteria.
- (2) General physical and environmental conditions.
- (3) Services and programs to be provided to confined children.
- (4) Procedures for ongoing monitoring and discharge planning.
- (5) Procedures for the care and control of confined persons that are necessary to ensure the health, safety, and treatment of confined children.

(e) The department shall license a facility as a private secure facility if the facility:

- (1) meets the minimum standards required under subsection (c);
- (2) provides a continuum of care and services; and
- (3) is:
 - (A) licensed under IC 12-25, IC 16-21-2, or IC 31-27-3; or
 - (B) a unit of a facility licensed under IC 12-25 or IC 16-21-2;

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1 regardless of the facility's duration of or previous licensure as a child
2 caring institution.

3 (f) A waiver of the rules may not be granted for treatment and
4 reporting requirements.

5 SECTION 33. IC 31-27-4-2, AS AMENDED BY P.L.143-2008,
6 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2009]: Sec. 2. (a) A person may not operate a therapeutic
8 foster family home without a license issued under this article.

9 (b) The state or a political subdivision of the state may not operate
10 a therapeutic foster family home without a license issued under this
11 article.

12 (c) The department may issue a license only for a therapeutic foster
13 family home that meets:

- 14 (1) all the licensing requirements of a foster family home; and
- 15 (2) the additional requirements described in this section.

16 (d) An applicant for a therapeutic foster family home license must
17 do the following:

- 18 (1) Be licensed as a foster parent under 465 IAC 2-1-1 et seq.
- 19 (2) Participate in preservice training that includes:
20 (A) preservice training to be licensed as a foster parent under
21 465 IAC 2-1-1 et seq.; and
22 (B) additional preservice training in therapeutic foster care.

23 (e) A person who is issued a license to operate a therapeutic foster
24 family home shall, within one (1) year after meeting the training
25 requirements of subsection (d)(2) and, annually thereafter, participate
26 in training that includes:

- 27 (1) training as required in order to be licensed as a foster parent
28 under 465 IAC 2-1-1 et seq.; and
- 29 (2) additional training in order to be licensed as a therapeutic
30 foster parent under this chapter.

31 (f) An operator of a therapeutic foster family home may not provide
32 supervision and care in a therapeutic foster family home to more than
33 two (2) foster children at the same time, not including the children for
34 whom the applicant or operator is a parent, stepparent, guardian,
35 custodian, or other relative. The department may grant an exception to
36 this subsection whenever the placement of siblings in the same
37 therapeutic foster family home is desirable or in the best interests of the
38 foster children residing in the home.

39 (g) A therapeutic foster family home may provide care for an
40 individual receiving foster care for older youth under IC 31-28-5.7-1
41 if the individual is no longer under the care and supervision of a
42 juvenile court.

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(h) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a therapeutic foster family home shall not be considered in determining whether the therapeutic foster family home meets or exceeds the limit set forth in subsection (f).

(i) The department shall adopt rules under IC 4-22-2, **including emergency rules under IC 4-22-2-37.1**, necessary to carry out this section, including rules governing the number of hours of training required under subsections (d) and (e).

SECTION 34. IC 31-27-4-3, AS AMENDED BY P.L.143-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A person may not operate a special needs foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a special needs foster family home without a license issued under this article.

(c) The department may only issue a license for a special needs foster family home that meets:

- (1) all the licensing requirements of a foster family home; and
- (2) the additional requirements described in this section.

(d) An applicant for a special needs foster family home license must be licensed as a foster parent under 465 IAC 2-1-1 et seq. that includes participating in preservice training.

(e) A person who is issued a license to operate a special needs foster family home shall, within one (1) year after meeting the training requirements of subsection (d) and, annually thereafter, participate in training that includes:

- (1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
- (2) additional training that includes specialized training to meet the child's or individual's specific needs.

(f) An operator of a special needs foster family home may not provide supervision and care as a special needs foster family home if more than:

- (1) eight (8) individuals, each of whom:
 - (A) is less than eighteen (18) years of age; or
 - (B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or
- (2) four (4) individuals less than six (6) years of age;

including the children or individuals for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision in the home at the same time. Not more than four (4) of the eight (8) individuals described in subdivision (1) may be less than six

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(6) years of age. The department may grant an exception to this section whenever the department determines that the placement of siblings in the same special needs foster home is desirable.

(g) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a special needs foster family home shall not be considered in determining whether the special needs foster family home meets or exceeds the limit set forth in subsection (f)(1).

(h) The department shall consider the specific needs of each special needs foster child or individual whenever the department determines the appropriate number of children or individuals to place in the special needs foster home under subsection (f). The department may require a special needs foster family home to provide care and supervision to less than the maximum number of children or individuals allowed under subsection (f) upon consideration of the specific needs of a special needs foster child or individual.

(i) A special needs foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.

(j) The department shall adopt rules under IC 4-22-2, **including emergency rules under IC 4-22-2-37.1**, necessary to carry out this section, including rules governing the number of hours of training required under subsection (e).

SECTION 35. IC 31-30-1-2.5, AS ADDED BY P.L.173-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. A juvenile court may not appoint a person to serve as the guardian or custodian of a child **or permit a person to continue to serve as a guardian or custodian of a child** if the person: ~~is:~~

(1) ~~is~~ a sexually violent predator (as described in IC 35-38-1-7.5); ~~or~~

(2) ~~a person who~~ was at least eighteen (18) years of age at the time of the offense and ~~who~~ committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;

(B) while armed with a deadly weapon; or

(C) that resulted in serious bodily injury; **or**

(3) was less than eighteen (18) years of age at the time of the offense but was tried and convicted as an adult of:

(A) an offense described in:

(i) IC 35-42-4-1;

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- (ii) IC 35-42-4-2;
- (iii) IC 35-42-4-3 as a Class A or Class B felony;
- (iv) IC 35-42-4-5(a)(1);
- (v) IC 35-42-4-5(a)(2);
- (vi) IC 35-42-4-5(a)(3);
- (vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;
- (viii) IC 35-42-4-5(b)(2); or
- (ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;
- (B) an attempt or conspiracy to commit a crime listed in clause (A); or
- (C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B).

SECTION 36. IC 31-33-3-7, AS AMENDED BY P.L.146-2008, SECTION 575, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The community child protection team shall prepare a periodic report regarding the child abuse and neglect reports and complaints that the team reviews under this chapter.

(b) The periodic report may include the following information:

- (1) The number of complaints under section 6 of this chapter that the team receives and reviews each month.
- (2) A description of the child abuse and neglect reports that the team reviews each month, including the following information:
 - (A) The scope and manner of the interviewing process during the child abuse or neglect ~~investigation~~ **assessment**.
 - (B) The timeliness of the ~~investigation~~ **assessment**.
 - (C) The number of children removed from the home.
 - (D) The types of services offered.
 - (E) The number of child abuse and neglect cases filed with a court.
 - (F) The reasons that certain child abuse and neglect cases are not filed with a court.

SECTION 37. IC 31-33-7-6.5, AS AMENDED BY P.L.234-2005, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. Child abuse or neglect information may be expunged under IC 31-39-8 if the probative value of the information is so doubtful as to outweigh its validity. Child abuse or neglect information shall be expunged if it is determined to be unsubstantiated after:

- (1) an ~~investigation~~ **assessment** by the department of a report of a child who may be a victim of child abuse or neglect; or

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1 (2) a court proceeding.

2 SECTION 38. IC 31-33-7-7, AS AMENDED BY P.L.234-2005,
3 SECTION 115, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) When a law enforcement
5 agency receives an initial report under IC 31-33-5-4 that a child may
6 be a victim of child abuse or neglect, the law enforcement agency shall:

7 (1) immediately communicate the report to the department,
8 whether or not the law enforcement agency has reason to believe
9 there exists an imminent danger to the child's health or welfare;
10 and

11 (2) conduct an immediate, onsite ~~investigation~~ **assessment** of the
12 report along with the department whenever the law enforcement
13 agency has reason to believe that an offense has been committed.

14 (b) In all cases, the law enforcement agency shall forward any
15 information, including copies of ~~investigation~~ **assessment** reports, on
16 incidents of cases in which a child may be a victim of child abuse or
17 neglect, whether or not obtained under this article, to:

18 (1) the department; and

19 (2) the juvenile court under IC 31-34-7.

20 SECTION 39. IC 31-33-7-8, AS AMENDED BY P.L.234-2005,
21 SECTION 116, IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section applies if the
23 department receives a report of suspected child abuse or neglect from:

24 (1) a hospital;

25 (2) a community mental health center;

26 (3) a managed care provider (as defined in IC 12-7-2-127(b));

27 (4) a referring physician;

28 (5) a dentist;

29 (6) a licensed psychologist; or

30 (7) a school.

31 (b) Not later than thirty (30) days after the date the department
32 receives a report of suspected child abuse or neglect from a person
33 described in subsection (a), the department shall send a report to:

34 (1) the administrator of the hospital;

35 (2) the community mental health center;

36 (3) the managed care provider;

37 (4) the referring physician;

38 (5) the dentist; or

39 (6) the principal of the school.

40 The report must contain the items listed in subsection (e) that are
41 known at the time the report is sent.

42 (c) Not later than ninety (90) days after the date the department

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receives a report of suspected child abuse or neglect, the department shall send a report that contains any additional items listed in subsection (e) that were not covered in the prior report if available.

(d) The administrator, director, referring physician, dentist, licensed psychologist, or principal may appoint a designee to receive the report.

(e) A report made by the department under this section must contain the following information:

- (1) The name of the alleged victim of child abuse or neglect.
- (2) The name of the alleged perpetrator and the alleged perpetrator's relationship to the alleged victim.
- (3) Whether the case is closed.
- (4) Whether information concerning the case has been expunged.
- (5) The name of any agency to which the alleged victim has been referred.
- (6) Whether the department has made an ~~investigation~~ **assessment** of the case and has not taken any further action.
- (7) Whether a substantiated case of child abuse or neglect was informally adjusted.
- (8) Whether the alleged victim was referred to the juvenile court as a child in need of services.
- (9) Whether the alleged victim was returned to the victim's home.
- (10) Whether the alleged victim was placed in residential care outside the victim's home.
- (11) Whether a wardship was established for the alleged victim.
- (12) Whether criminal action is pending or has been brought against the alleged perpetrator.
- (13) A brief description of any casework plan that has been developed by the department.
- (14) The caseworker's name and telephone number.
- (15) The date the report is prepared.
- (16) Other information that the department may prescribe.

(f) A report made under this section:

- (1) is confidential; and
- (2) may be made available only to:
 - (A) the agencies named in this section; and
 - (B) the persons and agencies listed in IC 31-33-18-2.

SECTION 40. IC 31-33-8-1, AS AMENDED BY P.L.124-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The department shall initiate an ~~immediate~~ **and** appropriately thorough child protection ~~investigation~~ **assessment** of every report of known or suspected child abuse or neglect the department receives, whether in accordance with this article or

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otherwise.

(b) If the department believes that a child is in imminent danger of serious bodily harm, the department shall initiate an onsite assessment not later than one (1) hour after receiving the report.

~~(b)~~ **(c)** Subject to subsections ~~(d)~~ and ~~(e)~~, If the report alleges a child may be a victim of child abuse, the ~~investigation~~ **assessment** shall be initiated immediately, but not later than twenty-four (24) hours after receipt of the report.

~~(c)~~ Subject to subsections ~~(d)~~ and ~~(e)~~, **(d)** If reports of child neglect are received, the ~~investigation~~ **assessment** shall be initiated within a reasonably prompt time, but not later than five (5) days, with the primary consideration being the well-being of the child who is the subject of the report.

(e) If the report alleges that a child lives with a parent, guardian, or custodian who is married to or lives with a person who:

(1) has been convicted of:

(A) neglect of a dependent under IC 35-46-1-4; or

(B) a battery offense under IC 35-42-4; or

(2) is required to register as a sex or violent offender under IC 11-8-8;

the department shall initiate an assessment within a reasonably prompt time, but not later than five (5) days after the department receives the report, with the primary consideration being the well-being of the child who is the subject of the report.

~~(d)~~ **(f)** If the ~~immediate~~ safety or well-being of a child appears to be endangered or the facts otherwise warrant, the ~~investigation~~ **assessment** shall be initiated regardless of the time of day.

~~(e)~~ If the department has reason to believe that the child is in imminent danger of serious bodily harm, the department shall initiate within one ~~(1)~~ hour an immediate, onsite investigation.

~~(f)~~ **(g)** If a report alleges abuse or neglect and involves a child care ministry that is exempt from licensure under IC 12-17.2-6, the department and the appropriate law enforcement agency shall jointly conduct an investigation. The investigation shall be conducted under the requirements of this section and section 2(b) of this chapter.

SECTION 41. IC 31-33-8-3, AS AMENDED BY P.L.234-2005, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Except as provided in subsection (b), the department shall:

(1) cause color photographs to be taken of the areas of trauma visible on a child who is subject to a report; and

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(2) if medically indicated, cause a radiological examination of the child to be performed.

(b) If the law enforcement agency participates in the ~~investigation~~, **assessment**, the law enforcement agency shall cause the color photographs to be taken as provided by this section.

(c) The department shall reimburse the expenses of the photographs and x-rays.

SECTION 42. IC 31-33-8-6, AS AMENDED BY P.L.234-2005, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The department shall promptly make a thorough ~~investigation~~ **assessment** upon either the oral or written report. The primary purpose of the ~~investigation~~ **assessment** is the protection of the child.

SECTION 43. IC 31-33-8-7, AS AMENDED BY P.L.234-2005, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The department's ~~investigation~~, **assessment**, to the extent that is reasonably possible, must include the following:

- (1) The nature, extent, and cause of the known or suspected child abuse or neglect.
- (2) The identity of the person allegedly responsible for the child abuse or neglect.
- (3) The names and conditions of other children in the home.
- (4) An evaluation of the parent, guardian, custodian or person responsible for the care of the child.
- (5) The home environment and the relationship of the child to the parent, guardian, or custodian or other persons responsible for the child's care.
- (6) All other data considered pertinent.

(b) The ~~investigation~~ **assessment** may include the following:

- (1) A visit to the child's home.
- (2) An interview with the subject child.
- (3) A physical, psychological, or psychiatric examination of any child in the home.

(c) If:

- (1) admission to the home, the school, or any other place that the child may be; or
- (2) permission of the parent, guardian, custodian, or other persons responsible for the child for the physical, psychological, or psychiatric examination;

under subsection (b) cannot be obtained, the juvenile court, upon good cause shown, shall follow the procedures under IC 31-32-12.

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SECTION 44. IC 31-33-8-8, AS AMENDED BY P.L.234-2005, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) If, before the ~~investigation~~ **assessment** is complete, the opinion of the law enforcement agency or the department is that immediate removal is necessary to protect the child from further abuse or neglect, the juvenile court may issue an order under IC 31-32-13.

(b) The department shall make a complete written report of the ~~investigation~~ **assessment**.

(c) If a law enforcement agency participates in the ~~investigation~~ **assessment**, the law enforcement agency shall also make a complete written report of the ~~investigation~~ **assessment**.

SECTION 45. IC 31-33-8-9, AS AMENDED BY P.L.234-2005, SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The department's report under section 8 of this chapter shall be made available to:

- (1) the appropriate court;
- (2) the prosecuting attorney; or
- (3) the appropriate law enforcement agency;

upon request.

(b) If child abuse or neglect is substantiated after an ~~investigation~~ **assessment** is conducted under section 7 of this chapter, the department shall forward its report to the office of the prosecuting attorney having jurisdiction in the county in which the alleged child abuse or neglect occurred.

(c) If the ~~investigation~~ **assessment** substantiates a finding of child abuse or neglect as determined by the department, a report shall be sent to the coordinator of the community child protection team under IC 31-33-3.

SECTION 46. IC 31-33-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. If the law enforcement agency participates in the child abuse or neglect ~~investigation~~ **assessment**, the law enforcement agency shall forward all information, including copies of an ~~investigation~~ **assessment** report under section 7 of this chapter, on an incident in which a child may be a victim of alleged child abuse or neglect, whether obtained under this article or not, to the office of the prosecuting attorney.

SECTION 47. IC 31-33-8-12, AS AMENDED BY P.L.234-2005, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Upon completion of an ~~investigation~~ **assessment**, the department shall classify reports as substantiated, indicated, or unsubstantiated.

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(b) Except as provided in subsection (c), the department shall expunge ~~investigation~~ **assessment** records one (1) year after a report has been classified as indicated under subsection (a).

(c) If the department has:

- (1) classified a report under subsection (a) as indicated; and
- (2) not expunged the report under subsection (b);

and the subject of the report is the subject of a subsequent report, the one (1) year period in subsection (b) is tolled for one (1) year after the date of the subsequent report.

SECTION 48. IC 31-33-11-1, AS AMENDED BY P.L.234-2005, SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Whenever:

- (1) a child is subject to ~~investigation~~ **assessment** by the department for reported child abuse or neglect;
- (2) the child is a patient in a hospital; and
- (3) the hospital has reported or has been informed of the report and ~~investigation~~ **assessment**;

the hospital may not release the child to the child's parent, guardian, custodian, or to a court approved placement until the hospital receives authorization or a copy of a court order from the department indicating that the child may be released to the child's parent, guardian, custodian, or court approved placement.

(b) If the authorization that is granted under this section is verbal, the department shall send a letter to the hospital confirming that the department has granted authorization for the child's release.

(c) The individual or third party payor responsible financially for the hospital stay of the child remains responsible for any extended stay under this section. If no party is responsible for the extended stay, the department shall pay the expenses of the extended hospital stay.

SECTION 49. IC 31-33-18-4, AS AMENDED BY P.L.234-2005, SECTION 157, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Whenever a child abuse or neglect ~~investigation~~ **assessment** is conducted under this article, the department shall give verbal and written notice to each parent, guardian, or custodian of the child that:

- (1) the reports and information described under section 1 of this chapter relating to the child abuse or neglect ~~investigation~~ **assessment**; and
- (2) if the child abuse or neglect allegations are pursued in juvenile court, the juvenile court's records described under IC 31-39;

are available upon the request of the parent, guardian, or custodian except as prohibited by federal law.

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(b) A parent, guardian, or custodian requesting information under this section may be required to sign a written release form that delineates the information that is requested before the information is made available. However, no other prerequisites for obtaining the information may be placed on the parent, guardian, or custodian except for reasonable copying costs.

SECTION 50. IC 31-33-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) An individual who knowingly requests, obtains, or seeks to obtain child abuse or neglect information under false pretenses commits a Class B misdemeanor.

(b) A person who knowingly or intentionally:

- (1) falsifies child abuse or neglect information or records; or
- (2) obstructs or interferes with a child abuse ~~investigation,~~ **assessment**, including an ~~investigation~~ **assessment** conducted by a local child fatality review team or the statewide child fatality review committee;

commits obstruction of a child abuse ~~investigation,~~ **assessment**, a Class A misdemeanor.

SECTION 51. IC 31-33-22-3, AS AMENDED BY P.L.234-2005, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A person who intentionally communicates to:

- (1) a law enforcement agency; or
- (2) the department;

a report of child abuse or neglect knowing the report to be false commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a previous unrelated conviction for making a report of child abuse or neglect knowing the report to be false.

(b) A person who intentionally communicates to:

- (1) a law enforcement agency; or
- (2) the department;

a report of child abuse or neglect knowing the report to be false is liable to the person accused of child abuse or neglect for actual damages. The finder of fact may award punitive damages and attorney's fees in an amount determined by the finder of fact against the person.

(c) The director or the director's designee shall, after review by the department's attorney, notify the prosecuting attorney whenever the director or the director's designee and the department's attorney have reason to believe that a person has violated this section.

(d) A person who:

- (1) has reason to believe that the person is a victim of a false

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1 report of child abuse or neglect under this section; and
 2 (2) is not named in a pending criminal charge or under
 3 ~~investigation~~ **assessment** relating to the report;
 4 may file a complaint with the prosecuting attorney. The prosecuting
 5 attorney shall review the relevant child abuse or neglect records of the
 6 department and any other relevant evidence.

7 SECTION 52. IC 31-33-26-3, AS ADDED BY P.L.138-2007,
 8 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2009]: Sec. 3. In addition to the equipment needed to
 10 establish, operate, and maintain the index, the index must include the
 11 following components:

12 (1) One (1) computer to be purchased for every two (2) child
 13 welfare caseworkers.

14 (2) Automated risk assessment in which a child welfare
 15 caseworker or supervisor is able to review a substantiated child
 16 abuse or neglect case to determine prior case history during the
 17 intake, ~~investigation~~, assessment, and case management
 18 processes.

19 (3) The capability to allow supervisors to monitor child abuse and
 20 neglect cases and reports relating to the cases.

21 (4) The automated production of standard reports to enable the
 22 automated compilation of information gathered on forms used by
 23 child welfare caseworkers to report the information and results of
 24 child abuse and neglect cases. The index must also provide for the
 25 automation of other data for planning and evaluation as
 26 determined by the department.

27 (5) The capability of same day notification and transfer of
 28 statistical information to the department regarding new and closed
 29 child abuse and neglect cases.

30 (6) The enabling of child welfare supervisors to review a child
 31 abuse or neglect determination at any point after the ~~investigation~~
 32 **assessment** is initially classified as substantiated abuse or neglect,
 33 to confirm the status of the case, and to allow for the consolidated
 34 management of cases.

35 (7) The capability for adjusting the index's programming at a later
 36 date if additional reporting requirements occur.

37 (8) A word processing capability to allow case notes to be
 38 recorded with each substantiated child abuse and neglect case.

39 SECTION 53. IC 31-34-1-9 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. A child in need of
 41 services under section 1, 2, 3, 4, 5, ~~6~~, 7, or 8 of this chapter includes a
 42 child with a disability who:

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- (1) is deprived of nutrition that is necessary to sustain life; or
- (2) is deprived of medical or surgical intervention that is necessary to remedy or ameliorate a life threatening medical condition;

if the nutrition or medical or surgical intervention is generally provided to similarly situated children with or without disabilities.

SECTION 54. IC 31-34-3-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. (a) This section applies beginning October 1, 2009.**

(b) If a child is removed from the child's parents under this chapter, within thirty (30) days after the removal of a child from the parents the department shall exercise due diligence to identify and provide notice of the removal to all adult relatives of the child, including relatives suggested by the parent's relative under 42 U.S.C. 671 (a)(32).

(c) Notice under subsection (b) shall not be provided to a relative who is suspected of causing family or domestic violence.

(d) A notice under subsection (b) shall:

- (1) state that the child has been removed from the parents by the department;**
- (2) set forth the options the relative may have under federal, state, or local laws, including the care and placement of the child and other options that may be lost if the relative fails to respond to the notice;**
- (3) describe the requirements for the relative to become a foster parent; and**
- (4) describe additional services available to the child placed in foster care.**

SECTION 55. IC 31-34-5-1, AS AMENDED BY P.L.138-2007, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1. (a) If a child taken into custody under IC 31-34-2 is not released, a detention hearing shall be held not later than forty-eight (48) hours, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided under IC 1-1-9, after the child is taken into custody. If the detention hearing is not held, the child shall be released. Notice of the time, place, and purpose of the detention hearing shall be given to the following:**

- (1) The child.**
- (2) The child's parent, guardian, or custodian if the person can be located.**

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(3) Each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-34-4.

(b) The court shall:

(1) provide a person who is required to be notified under subsection (a)(2) or (a)(3) an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the detention hearing.

(c) A petition alleging that a child described in subsection (a) is a child in need of services shall be filed before a detention hearing is held for the child.

SECTION 56. IC 31-34-5-1.5, AS AMENDED BY P.L.138-2007, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) This section applies to a child taken into custody under IC 31-34-2.5.

(b) The juvenile court shall hold a detention hearing after an emergency medical services provider takes custody of a child under IC 31-34-2.5. The court shall hold the detention hearing not later than forty-eight (48) hours after the emergency medical services provider takes the child into custody, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided under IC 1-1-9. **A petition alleging that a child described in subsection (a) is a child in need of services shall be filed before the detention hearing is held for the child.**

(c) The department may notify the emergency medical services provider that has taken emergency custody of a child under IC 31-34-2.5 of the detention hearing. The emergency medical services provider may be heard at the detention hearing.

(d) The department shall notify each foster parent or other caretaker with whom the child has been temporarily placed under IC 31-34-2.5 of the detention hearing. The court shall:

(1) provide a person who is required to be notified under this subsection an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the detention hearing.

SECTION 57. IC 31-34-10-2, AS AMENDED BY P.L.138-2007, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The juvenile court shall hold an initial hearing on each petition.

(b) The juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:

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(1) The child.

(2) The child's parent, guardian, custodian, guardian ad litem, or court appointed special advocate.

(3) Any other person necessary for the proceedings.

(c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.

(d) If the child has been detained following a detention hearing under IC 31-34-5, an initial hearing shall be scheduled and held not later than seven (7) days after the date of the detention order, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided under IC 1-1-9.

(e) If the initial hearing is not scheduled and held within the specified time as described in this section, the child shall be released to the child's parent, guardian, or custodian.

(f) The court may schedule an additional initial hearing on the child in need of services petition if necessary to comply with the procedures and requirements of this chapter with respect to any person to whom a summons has been issued under this section.

(g) An additional initial hearing on the child in need of services petition shall be held not more than thirty (30) calendar days after the date of the first initial hearing on the child in need of services petition, unless the court has:

(1) granted an extension of time for extraordinary circumstances; and

(2) stated the extraordinary circumstance in a written court order.

(h) The department shall provide notice of the date, time, place, and purpose of the initial hearing and any additional initial hearing scheduled under this section to each foster parent or other caretaker with whom the child has been temporarily placed under IC 31-34-2.5, IC 31-34-4, or IC 31-34-5. The court shall:

(1) provide a:

(A) person for whom a summons is required to be issued under subsection (b); and

(B) person who is required to be notified under this subsection;

an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court; at the initial hearing.

(i) A petition alleging that a child is a child in need of services shall be filed before a detention hearing concerning the child is

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held.

(j) If a detention hearing is held under IC 31-34-5, the initial hearing on the child in need of services petition shall be held at the same time as the detention hearing.

(k) The court may schedule an additional initial hearing on a child in need of services petition if necessary to comply with the procedures and requirements of this chapter with respect to any person to whom a summons has been issued under this section.

(l) An additional initial hearing under subsection (k) shall be held not more than thirty (30) calendar days after the date of the first initial hearing on the child in need of services petition unless the court:

(1) grants an extension of time for extraordinary circumstances; and

(2) states the extraordinary circumstance in a written court order.

SECTION 58. IC 31-34-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Evidence that a prior or subsequent act or omission by a parent, guardian, or custodian injured a child is admissible in proceedings alleging that a child is a child in need of services to show the following:

(1) Intent, guilty knowledge, the absence of mistake or accident, identification, the existence of a common scheme or plan, or other similar purposes.

(2) A likelihood that the act or omission of the parent, guardian, or custodian is responsible for the child's current injury or condition.

(b) For purposes of an investigation by the department, if:

(1) a parent, guardian, or custodian had care, custody, and control of the child immediately before the child died;

(2) a law enforcement officer or an employee of the department requested the parent, guardian, or custodian to submit to a drug or alcohol screen test not later than three (3) hours after the death of the child;

(3) the parent, guardian, or custodian did not submit to a drug or alcohol screen test within three (3) hours of the law enforcement officer or employee of the department having probable cause to believe the parent, guardian, or custodian was using drugs or alcohol prior to the child's death; and

(4) the law enforcement officer or employee of the department had probable cause to believe the parent, guardian, or custodian was impaired, intoxicated, or under the influence of

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1 drug or alcohol immediately prior to or at the time of the
 2 child's death;
 3 **the failure to submit to the drug or alcohol test is prima facie**
 4 **evidence that the parent, guardian, or custodian was intoxicated or**
 5 **under the influence of alcohol or drugs at the time of the child's**
 6 **death.**

7 **(c) Evidence from a drug or alcohol screen test administered**
 8 **under this section is not admissible as evidence in a criminal**
 9 **proceeding.**

10 SECTION 59. IC 31-34-15-4, AS AMENDED BY P.L.145-2006,
 11 SECTION 303, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2009]: Sec. 4. A child's case plan must be set
 13 out in a form prescribed by the department that meets the specifications
 14 set by 45 CFR 1356.21. The case plan must include a description and
 15 discussion of the following:

16 (1) A permanent plan for the child and an estimated date for
 17 achieving the goal of the plan.

18 (2) The appropriate placement for the child based on the child's
 19 special needs and best interests.

20 (3) The least restrictive family-like setting that is close to the
 21 home of the child's parent, custodian, or guardian if out-of-home
 22 placement is recommended. If an out-of-home placement is
 23 appropriate, the county office or department shall consider
 24 whether a child in need of services should be placed with the
 25 child's suitable and willing blood or adoptive relative caretaker,
 26 including a grandparent, an aunt, an uncle, or an adult sibling,
 27 before considering other out-of-home placements for the child.

28 (4) Family services recommended for the child, parent, guardian,
 29 or custodian.

30 (5) Efforts already made to provide family services to the child,
 31 parent, guardian, or custodian.

32 (6) Efforts that will be made to provide family services that are
 33 ordered by the court.

34 **(7) A plan for ensuring the educational stability of the child**
 35 **while in foster care that includes:**

36 **(A) assurances that the placement in foster care considers**
 37 **the appropriateness of the current educational setting of**
 38 **the child and the proximity to the school where the child is**
 39 **presently enrolled;**

40 **(B) the coordination with local education agencies to**
 41 **ensure the child remains in the school where the child is**
 42 **enrolled at the time of removal; and**

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(C) immediate, appropriate enrollment of the child in a different school if remaining in the same school is not in the best interests of the child.

SECTION 60. IC 31-35-2-4, AS AMENDED BY P.L.146-2008, SECTION 615, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:

- (1) The attorney for the department.
- (2) The child's court appointed special advocate.
- (3) The child's guardian ad litem.

(b) The petition must:

- (1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)"; and

(2) allege that:

(A) one (1) of the following exists:

- (i) the child has been removed from the parent for at least six (6) months under a dispositional decree;
- (ii) a court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made; or
- (iii) the child has been removed from the parent and has been under the supervision of a ~~county office of family and children~~ **local office or probation department** for at least fifteen (15) months of the most recent twenty-two (22) months;

(B) there is a reasonable probability that:

- (i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or
- (ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;

(C) termination is in the best interests of the child; and

(D) there is a satisfactory plan for the care and treatment of the child.

(3) Indicate whether at least one (1) of the factors listed in section 4.5(d)(1) through 4.5(d)(3) of this chapter applies and specify each factor that would apply as the basis for filing a motion to

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dismiss the petition.

SECTION 61. IC 31-35-2-4.5, AS AMENDED BY P.L.146-2008,
SECTION 616, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) This section applies if:

(1) a court has made a finding under IC 31-34-21-5.6 that
reasonable efforts for family preservation or reunification with
respect to a child in need of services are not required; or

(2) a child in need of services:

(A) has been placed in:

(i) a foster family home, child caring institution, or group
home licensed under IC 31-27; or

(ii) the home of a person related (as defined in
IC 31-9-2-106.5) to the child;

as directed by a court in a child in need of services proceeding
under IC 31-34; and

(B) has been removed from a parent and has been under the
supervision of the department **or county probation
department** for not less than fifteen (15) months of the most
recent twenty-two (22) months, excluding any period not
exceeding sixty (60) days before the court has entered a
finding and judgment under IC 31-34 that the child is a child
in need of services.

(b) A person described in section 4(a) of this chapter shall:

(1) file a petition to terminate the parent-child relationship under
section 4 of this chapter; and

(2) request that the petition be set for hearing.

(c) If a petition under subsection (b) is filed by the child's court
appointed special advocate or guardian ad litem, the department shall
be joined as a party to the petition.

(d) A party shall file a motion to dismiss the petition to terminate
the parent-child relationship if any of the following circumstances
apply:

(1) That the current case plan prepared by or under the
supervision of the department under IC 31-34-15 has documented
a compelling reason, based on facts and circumstances stated in
the petition or motion, for concluding that filing, or proceeding to
a final determination of, a petition to terminate the parent-child
relationship is not in the best interests of the child. A compelling
reason may include the fact that the child is being cared for by a
custodian who is a parent, stepparent, grandparent, or responsible
adult who is the child's sibling, aunt, or uncle or a person related
(as defined in IC 31-9-2-106.5) to the child who is caring for the

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child as a legal guardian.

(2) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department has not provided family services to the child, parent, or family of the child in accordance with a currently effective case plan prepared under IC 31-34-15 or a permanency plan or dispositional decree approved under IC 31-34, for the purpose of permitting and facilitating safe return of the child to the child's home; and

(C) the period for completion of the program of family services, as specified in the current case plan, permanency plan, or decree, has not expired.

(3) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department has not provided family services to the child, parent, or family of the child, in accordance with applicable provisions of a currently effective case plan prepared under IC 31-34-15, or a permanency plan or dispositional decree approved under IC 31-34; and

(C) the services that the department has not provided are substantial and material in relation to implementation of a plan to permit safe return of the child to the child's home.

The motion to dismiss shall specify which of the allegations described in subdivisions (1) through (3) apply to the motion. If the court finds that any of the allegations described in subdivisions (1) through (3) are true, as established by a preponderance of the evidence, the court shall dismiss the petition to terminate the parent-child relationship.

SECTION 62. IC 31-37-17-1, AS AMENDED BY P.L.146-2008, SECTION 637, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Upon finding that a child is a delinquent child, the juvenile court shall order a probation officer to prepare a predispositional report that contains:

(1) a statement of the needs of the child for care, treatment, rehabilitation, or placement;

(2) a recommendation for the care, treatment, rehabilitation, or placement of the child;

(3) if the recommendation includes

~~(A) an out-of-home placement other than a secure detention facility, or~~

~~(B) services payable by the department under IC 31-40-1-2;~~

information that the department requires to determine whether the child is eligible for assistance under Title IV-E of the federal

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Social Security Act (42 U.S.C. 670 et seq.); and

(4) a statement of the department's concurrence with or its alternative proposal to the probation officer's predispositional report, as provided in section 1.4 of this chapter.

(b) Any of the following may prepare an alternative report for consideration by the court:

(1) The child.

(2) The child's:

(A) parent;

(B) guardian;

(C) guardian ad litem;

(D) court appointed special advocate; or

(E) custodian.

SECTION 63. IC 31-37-17-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8. Unless prohibited by federal law, a probation department and:**

(1) the local office of family and children;

(2) a local office; and

(3) the department of child services;

may exchange information for use in preparing a report under this chapter.

SECTION 64. IC 31-37-19-1.5, AS ADDED BY P.L.146-2008, SECTION 648, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) This section applies to a delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility.

(b) The probation department, after negotiating with the child's parent, guardian, or custodian, shall complete the child's case plan not later than sixty (60) days after ~~the earlier of:~~

~~(1) the date of the child's first placement or~~

~~(2) the date of a dispositional decree.~~

that is paid for by the department.

(c) A copy of the completed case plan shall be sent to the department, to the child's parent, guardian, or custodian, and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child not later than ten (10) days after the plan's completion.

(d) A child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

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(1) A permanency plan for the child and an estimated date for achieving the goal of the plan.

(2) The appropriate placement for the child based on the child's special needs and best interests.

(3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is implemented or recommended, including consideration of possible placement with any suitable and willing relative caretaker, before considering other out-of-home placements for the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(7) A plan for ensuring the educational stability of the child while in foster care that includes:

(1) assurances that the placement in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child is presently enrolled;

(2) the coordination with local education agencies to ensure the child remains in the school where the child is enrolled at the time of removal; and

(3) immediate, appropriate enrollment of the child in a different school if remaining in the same school is not in the best interests of the child.

(e) Each caretaker of a child and the probation department shall cooperate in the development of the case plan for the child. The probation department shall discuss with at least one (1) foster parent or other caretaker of a child the role of the substitute caretaker or facility regarding the following:

(1) Rehabilitation of the child and the child's parents, guardians, and custodians.

(2) Visitation arrangements.

(3) Services required to meet the special needs of the child.

(f) The case plan must be reviewed and updated by the probation department at least once every one hundred eighty (180) days.

SECTION 65. IC 31-37-22-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. (a) This section applies to a**

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delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility.

(b) The probation department, after negotiating with the child's parent, guardian, or custodian, shall complete the child's case plan not later than sixty (60) days after the date of the child's first placement that is paid for by the department.

(c) A copy of the completed case plan shall be sent to the department, to the child's parent, guardian, or custodian, and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child not later than ten (10) days after the plan's completion.

(d) A child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

(1) A permanency plan for the child and an estimated date for achieving the goal of the plan.

(2) The appropriate placement for the child based on the child's special needs and best interests.

(3) The least restrictive family like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is implemented or recommended, including consideration of possible placement with any suitable and willing relative caretaker, before considering other out-of-home placements for the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(e) The probation department and each caretaker of a child shall cooperate in the development of the case plan for the child. The probation department shall discuss with at least one (1) foster parent or other caretaker of a child the role of the substitute caretaker or facility regarding the following:

(1) Rehabilitation of the child and the child's parents, guardians, and custodians.

(2) Visitation arrangements.

(3) Services required to meet the special needs of the child.

(f) The case plan must be reviewed and updated by the probation department at least once every one hundred eighty (180)

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1 **days.**

2 SECTION 66. IC 35-42-2-1, AS AMENDED BY P.L.120-2008,
3 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2009]: Sec. 1. (a) A person who knowingly or intentionally
5 touches another person in a rude, insolent, or angry manner commits
6 battery, a Class B misdemeanor. However, the offense is:

- 7 (1) a Class A misdemeanor if:
- 8 (A) it results in bodily injury to any other person;
 - 9 (B) it is committed against a law enforcement officer or
10 against a person summoned and directed by the officer while
11 the officer is engaged in the execution of the officer's official
12 duty;
 - 13 (C) it is committed against an employee of a penal facility or
14 a juvenile detention facility (as defined in IC 31-9-2-71) while
15 the employee is engaged in the execution of the employee's
16 official duty;
 - 17 (D) it is committed against a firefighter (as defined in
18 IC 9-18-34-1) while the firefighter is engaged in the execution
19 of the firefighter's official duty;
 - 20 (E) it is committed against a community policing volunteer:
 - 21 (i) while the volunteer is performing the duties described in
22 IC 35-41-1-4.7; or
 - 23 (ii) because the person is a community policing volunteer;
 - 24 or
 - 25 (F) it is committed against the state chemist or the state
26 chemist's agent while the state chemist or the state chemist's
27 agent is performing a duty under IC 15-16-5;
- 28 (2) a Class D felony if it results in bodily injury to:
- 29 (A) a law enforcement officer or a person summoned and
30 directed by a law enforcement officer while the officer is
31 engaged in the execution of the officer's official duty;
 - 32 (B) a person less than fourteen (14) years of age and is
33 committed by a person at least eighteen (18) years of age;
 - 34 (C) a person of any age who has a mental or physical disability
35 and is committed by a person having the care of the person
36 with a mental or physical disability, whether the care is
37 assumed voluntarily or because of a legal obligation;
 - 38 (D) the other person and the person who commits the battery
39 was previously convicted of a battery in which the victim was
40 the other person;
 - 41 (E) an endangered adult (as defined in IC 12-10-3-2);
 - 42 (F) an employee of the department of correction while the

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- 1 employee is engaged in the execution of the employee's
 2 official duty;
 3 (G) an employee of a school corporation while the employee
 4 is engaged in the execution of the employee's official duty;
 5 (H) a correctional professional while the correctional
 6 professional is engaged in the execution of the correctional
 7 professional's official duty;
 8 (I) a person who is a health care provider (as defined in
 9 IC 16-18-2-163) while the health care provider is engaged in
 10 the execution of the health care provider's official duty;
 11 (J) an employee of a penal facility or a juvenile detention
 12 facility (as defined in IC 31-9-2-71) while the employee is
 13 engaged in the execution of the employee's official duty;
 14 (K) a firefighter (as defined in IC 9-18-34-1) while the
 15 firefighter is engaged in the execution of the firefighter's
 16 official duty;
 17 (L) a community policing volunteer:
 18 (i) while the volunteer is performing the duties described in
 19 IC 35-41-1-4.7; or
 20 (ii) because the person is a community policing volunteer;
 21 or
 22 (M) a family or household member (as defined in
 23 IC 35-41-1-10.6) if the person who committed the offense:
 24 (i) is at least eighteen (18) years of age; and
 25 (ii) committed the offense in the physical presence of a child
 26 less than sixteen (16) years of age, knowing that the child
 27 was present and might be able to see or hear the offense; or
 28 **(N) a department of child services employee while the**
 29 **employee is engaged in the execution of the employee's**
 30 **official duty;**
 31 (3) a Class C felony if it results in serious bodily injury to any
 32 other person or if it is committed by means of a deadly weapon;
 33 (4) a Class B felony if it results in serious bodily injury to a
 34 person less than fourteen (14) years of age and is committed by a
 35 person at least eighteen (18) years of age;
 36 (5) a Class A felony if it results in the death of a person less than
 37 fourteen (14) years of age and is committed by a person at least
 38 eighteen (18) years of age;
 39 (6) a Class C felony if it results in serious bodily injury to an
 40 endangered adult (as defined in IC 12-10-3-2);
 41 (7) a Class B felony if it results in the death of an endangered
 42 adult (as defined in IC 12-10-3-2); and

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(8) a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

SECTION 67. IC 35-42-2-6, AS AMENDED BY P.L.178-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) As used in this section, "corrections officer" includes a person employed by:

(1) the department of correction;

(2) a law enforcement agency;

(3) a probation department;

(4) a county jail; or

(5) a circuit, superior, county, probate, city, or town court.

(b) As used in this section, "firefighter" means a person who is a:

(1) full-time, salaried firefighter;

(2) part-time, paid firefighter; or

(3) volunteer firefighter (as defined in IC 36-8-12-2).

(c) As used in this section, "first responder" means a person who:

(1) is certified under IC 16-31 and who meets the Indiana emergency medical services commission's standards for first responder certification; and

(2) responds to an incident requiring emergency medical services.

(d) As used in this section, "human immunodeficiency virus (HIV)" includes acquired immune deficiency syndrome (AIDS) and AIDS related complex.

(e) A person who knowingly or intentionally in a rude, insolent, or angry manner places blood or another body fluid or waste on a law enforcement officer, firefighter, first responder, ~~or~~ corrections officer, **or department of child services employee**, identified as such and while engaged in the performance of official duties or coerces another person to place blood or another body fluid or waste on the law enforcement officer, firefighter, first responder, ~~or~~ corrections officer, **or department of child services employee**, commits battery by body waste, a Class D felony. However, the offense is:

(1) a Class C felony if the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with:

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- 1 (A) hepatitis B or hepatitis C;
- 2 (B) HIV; or
- 3 (C) tuberculosis;
- 4 (2) a Class B felony if:
 - 5 (A) the person knew or recklessly failed to know that the
 - 6 blood, bodily fluid, or waste was infected with hepatitis B or
 - 7 hepatitis C and the offense results in the transmission of
 - 8 hepatitis B or hepatitis C to the other person; or
 - 9 (B) the person knew or recklessly failed to know that the
 - 10 blood, bodily fluid, or waste was infected with tuberculosis
 - 11 and the offense results in the transmission of tuberculosis to
 - 12 the other person; and
- 13 (3) a Class A felony if:
 - 14 (A) the person knew or recklessly failed to know that the
 - 15 blood, bodily fluid, or waste was infected with HIV; and
 - 16 (B) the offense results in the transmission of HIV to the other
 - 17 person.
- 18 (f) A person who knowingly or intentionally in a rude, an insolent,
- 19 or an angry manner places human blood, semen, urine, or fecal waste
- 20 on another person commits battery by body waste, a Class A
- 21 misdemeanor. However, the offense is:
 - 22 (1) a Class D felony if the person knew or recklessly failed to
 - 23 know that the blood, semen, urine, or fecal waste was infected
 - 24 with:
 - 25 (A) hepatitis B or hepatitis C;
 - 26 (B) HIV; or
 - 27 (C) tuberculosis;
 - 28 (2) a Class C felony if:
 - 29 (A) the person knew or recklessly failed to know that the
 - 30 blood, semen, urine, or fecal waste was infected with hepatitis
 - 31 B or hepatitis C and the offense results in the transmission of
 - 32 hepatitis B or hepatitis C to the other person; or
 - 33 (B) the person knew or recklessly failed to know that the
 - 34 blood, semen, urine, or fecal waste was infected with
 - 35 tuberculosis and the offense results in the transmission of
 - 36 tuberculosis to the other person; and
 - 37 (3) a Class B felony if:
 - 38 (A) the person knew or recklessly failed to know that the
 - 39 blood, semen, urine, or fecal waste was infected with HIV; and
 - 40 (B) the offense results in the transmission of HIV to the other
 - 41 person.
- 42 SECTION 68. IC 36-2-14-6.3, AS ADDED BY P.L.225-2007,

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SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.3. (a) A coroner shall notify **the local office of the department of child services and:**

(1) the local child fatality review team; or
 (2) if the county does not have a local child fatality review team, the statewide child fatality review committee;
 of each death of a person who is less than eighteen (18) years of age, or appears to be less than eighteen (18) years of age. ~~and who has died in an apparently suspicious, unusual, or unnatural manner.~~

(b) If a child less than eighteen (18) years of age dies in an apparently suspicious, unusual, or unnatural manner, the coroner shall consult with a child death pathologist to determine whether an autopsy is necessary. If the coroner and the child death pathologist disagree over the need for an autopsy, the county prosecutor shall determine whether an autopsy is necessary. If the autopsy is considered necessary, a child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy within twenty-four (24) hours. If the autopsy is not considered necessary, the autopsy shall not be conducted.

(c) If a child death pathologist and coroner agree under subsection (b) that an autopsy is necessary, the child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy of the child.

SECTION 69. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 31-9-2-21; IC 31-9-2-80; IC 31-9-2-103; IC 31-9-2-113; IC 31-38.

SECTION 70. [EFFECTIVE JULY 1, 2009] (a) **The department of child services, in cooperation with the department of education, shall develop and coordinate the education advocates for children in foster care plan. The plan must:**

- (1) **specify the best approach to coordinate the transfer of a child in foster care between schools and between school districts;**
- (2) **address specific educational issues encountered by children in foster care;**
- (3) **specify with whom the department may partner to assist with the educational needs of a child in foster care;**
- (4) **specify how school corporation liaisons, under IC 20-50-1, and the programs for tutoring and mentoring for homeless children and foster care children, under IC 20-5-2, could assist the department with foster care children; and**
- (5) **recommend legislation to fulfill the plan.**

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1 (b) The department shall submit a report to the governor and
2 the legislative council before July 1, 2010. The report must include
3 details of the plan described in subsection (a). The report
4 submitted to the legislative council must be in an electronic format
5 under IC 5-14-6.

6 (c) This SECTION expires December 31, 2010.

7 SECTION 71. [EFFECTIVE UPON PASSAGE] IC 31-30-1-2.5, as
8 amended by this act, applies to proceedings pending on or
9 initiated on or after the effective date of this SECTION.

10 SECTION 72. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 365, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 3. IC 29-3-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. A court may not appoint a person to serve as the guardian or permit a person to continue to serve as a guardian if the person:**

(1) is a sexually violent predator (as described in IC 35-38-1-7.5);

(2) was at least eighteen (18) years of age at the time of the offense and was convicted of child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;

(B) while armed with a deadly weapon; or

(C) that resulted in serious bodily injury; or

(3) was less than eighteen (18) years of age at the time of the offense and was convicted as an adult of:

(A) an offense described in:

(i) IC 35-42-4-1;

(ii) IC 35-42-4-2;

(iii) IC 35-42-4-3 as a Class A or Class B felony;

(iv) IC 35-42-4-5(a)(1);

(v) IC 35-42-4-5(a)(2);

(vi) IC 35-42-4-5(a)(3);

(vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(viii) IC 35-42-4-5(b)(2); or

(ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;

(B) an attempt or conspiracy to commit a crime listed in clause (A); or

(C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B)."

Page 4, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 5. IC 31-9-2-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 107. (a) "Relative", for purposes of IC 31-19-18, means:**

(1) an adoptive or whole blood related parent;

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(2) a sibling; or

(3) a child.

(b) "Relative", for purposes of IC 31-34-3, means:

(1) a maternal or paternal grandparent;

(2) an adult aunt or uncle; or

(3) any adult relative suggested by the parent of a child."

Page 4, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 8. IC 31-19-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A petition for adoption must specify the following:

(1) The:

(A) name if known;

(B) sex, race, and age if known, or if unknown, the approximate age; and

(C) place of birth;

of the child sought to be adopted.

(2) The new name to be given the child if a change of name is desired.

(3) Whether or not the child possesses real or personal property and, if so, the value and full description of the property.

(4) The:

(A) name, age, and place of residence of a petitioner for adoption; and

(B) if married, place and date of their marriage.

(5) The name and place of residence, if known to the petitioner for adoption, of:

(A) the parent or parents of the child;

(B) if the child is an orphan:

(i) the guardian; or

(ii) the nearest kin of the child if the child does not have a guardian;

(C) the court or agency of which the child is a ward if the child is a ward; or

(D) the agency sponsoring the adoption if there is a sponsor.

(6) The time, if any, during which the child lived in the home of the petitioner for adoption.

(7) Whether the petitioner for adoption has been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

and, if so, the date and description of the conviction.

(8) Additional information consistent with the purpose and

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provisions of this article that is considered relevant to the proceedings. ~~including whether:~~

~~(A) a petitioner for adoption is seeking aid; and~~

~~(B) the willingness of the petitioner for adoption to proceed with the adoption is conditioned on obtaining aid.~~

SECTION 9. IC 31-19-2-12, AS AMENDED BY P.L.146-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. As soon as a petition for adoption is found to be in proper form, the clerk of the court shall forward one (1) copy of the petition for adoption to:

(1) a licensed child placing agency as described in IC 31-19-7-1, with preference to be given to the agency, if any, sponsoring the adoption, as shown by the petition for adoption; and

~~(2) the county office of family and children whenever a subsidy is requested in a petition for adoption sponsored by a licensed child placing agency.~~ **department."**

Page 4, line 33, after "agency" insert **"for a child who has not been adjudicated to be a child in need of services,"**.

Page 4, line 33, after "or" insert **", if"**.

Page 4, line 33, after "the" insert **"child is the subject of an open child in need of services action,"**.

Page 4, line 34, after "children" insert **"the"**.

Page 4, line 34, strike "approved for that purpose by" and insert **"of"**.

Page 4, between lines 34 and 35, begin a new paragraph and insert:
"SECTION 11. IC 31-19-8-3, AS AMENDED BY P.L.145-2006, SECTION 249, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The department shall annually compile a list of

~~(1) licensed child placing agencies and~~

~~(2) county offices of family and children;~~

that conduct the inspection and supervision required for adoption of a child by IC 31-19-7-1 and section 1 of this chapter.

(b) The list of licensed child placing agencies ~~and county offices of family and children~~ must include a description of the following:

~~(1) Fees charged by each agency. and county office of family and children.~~

~~(2) Geographic area served by each agency. and county office of family and children.~~

~~(3) Approximate waiting period for the inspection or supervision by each licensed child placing agency. and county office of family and children.~~

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(4) Other relevant information regarding the inspection and supervision provided by ~~an a licensed child placing agency or a county office of family and children~~ under IC 31-19-7-1 and section 1 of this chapter.

(c) The department shall do the following:

(1) Maintain in its office ~~or on its website~~ **sufficient** copies of the list compiled under this section for distribution to individuals who request a copy.

(2) Provide the following persons with sufficient copies of the list prepared under this section for distribution to individuals who request a copy:

(A) Each clerk of a court having probate jurisdiction in a county.

(B) Each ~~county office of family and children~~ **local office**.

~~(3) Provide a copy of the list to each public library organized under IC 36-12.~~

(d) The department ~~and each:~~

~~(1) county office of family and children;~~

~~(2) clerk of a court having probate jurisdiction in a county; and~~

~~(3) public library organized under IC 36-12;~~

shall make the list compiled under this section available for public inspection.

SECTION 12. IC 31-19-8-4, AS AMENDED BY P.L.145-2006, SECTION 250, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. To facilitate adoption proceedings, the department shall:

(1) publish;

(2) post on its web site; or

(3) furnish to clerks of Indiana courts having probate jurisdiction; a list of approved supervising agencies."

Page 4, line 39, after "agency, each" strike "agency or".

Page 4, line 40, delete "local office" and insert **"licensed child placing agency for a child who is not adjudicated to be a child in need of services, or, if the child is the subject of an open child in need of services action, each local office of the department,"**.

Page 5, line 1, strike "agency's or".

Page 5, line 1, delete "local".

Page 5, line 2, delete "office's".

Page 5, line 5, after "child" delete ":".

Page 5, line 6, strike "(1)".

Page 5, line 8, after "supervision" insert ".".

Page 5, line 8, strike "under section 2(c) of".

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Page 5, strike line 9.

Page 5, line 10, strike "(2) may require the".

Page 5, line 10, delete "local".

Page 5, line 11, delete "office".

Page 5, line 11, strike "or a child placing agency to:".

Page 5, strike lines 12 through 13.

Page 5, line 15, delete "local office" and insert **"licensed child placing agency for a child who is not adjudicated to be a child in need of services, or, if the child is the subject of an open child in need of services action, each local office of the department,"**.

Page 5, line 16, strike "or a child placing agency".

Page 5, line 17, strike "conduct" and insert **"ensure"**.

Page 5, line 17, after "check" insert **"is conducted"**.

Page 5, line 21, strike "agency's or".

Page 5, line 22, delete "local office's".

Page 5, line 26, delete "place:" and insert **"place, as defined by the department."**.

Page 5, strike lines 27 through 30.

Page 5, line 33, after "of the" insert **"adoptive"**.

Page 5, line 41, strike "agency's".

Page 5, line 42, strike "or".

Page 5, line 42, delete "local office's".

Page 6, line 7, after "of the" insert **"licensed child placing"**.

Page 6, line 8, after "local office" insert **"of the department"**.

Page 6, between lines 9 and 10, begin a new paragraph and insert:
"SECTION 16. IC 31-19-11-3, AS AMENDED BY P.L.146-2008, SECTION 561, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) If the petition for adoption contained a request for financial assistance, the court shall refer the ~~petition~~ petitioner to the department to complete and submit to the department the Indiana Adoption Program application for a determination of eligibility for:

(1) adoption assistance under 42 U.S.C. 673, including applicable federal and state regulations; or

(2) an adoption subsidy under IC 31-19-26.5.

(b) The department shall determine the eligibility of the adoptive child for financial assistance and the amount of assistance, if any, that will be provided.

(c) The court may not order payment of:

(1) adoption assistance under 42 U.S.C. 673; or

(2) any adoption subsidy under IC 31-19-26.5."

Page 7, line 31, strike "three (3)" and insert **"twelve (12)"**.

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Page 8, between lines 11 and 12, begin a new paragraph and insert:
 "SECTION 17. IC 31-25-2-8, AS ADDED BY P.L.145-2006,
 SECTION 271, IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2009]: Sec. 8. **(a)** The department is the single
 state agency responsible for administering the following:

- (1) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.
- (2) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.
- (3) The federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106 et seq.
- (4) The federal Social Services Block Grant under 42 U.S.C. 1397 et seq.
- (5) Any other federal program that provides funds to states for services related to the prevention of child abuse and neglect, child welfare services, foster care, independent living, or adoption services.

(b) This subsection applies beginning October 1, 2009. Pursuant to 42 U.S.C. 671(a)(32), the department shall negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the state that requests to develop an agreement with the state to administer all or part of Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq., on behalf of Indian children who are under the authority of the tribe, tribal organization, or tribal consortium."

Page 16, between lines 31 and 32, begin a new paragraph and insert:
 SECTION 31. IC 31-27-2-4, AS ADDED BY P.L.145-2006,
 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The department shall adopt rules under IC 4-22-2, **including emergency rules under IC 4-22-2-37.1**, concerning the licensing and inspection of child caring institutions, foster family homes, group homes, and child placing agencies after consultation with the following:

- (1) State department of health.
- (2) Fire prevention and building safety commission.

(b) The rules adopted under subsection (a) shall be applied by the department and state fire marshal in the licensing and inspection of applicants for a license and licensees under this article.

(c) The rules adopted under IC 4-22-2 must establish minimum standards for the care and treatment of children in a secure private facility.

(d) The rules described in subsection (c) must include standards

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governing the following:

- (1) Admission criteria.
- (2) General physical and environmental conditions.
- (3) Services and programs to be provided to confined children.
- (4) Procedures for ongoing monitoring and discharge planning.
- (5) Procedures for the care and control of confined persons that are necessary to ensure the health, safety, and treatment of confined children.

(e) The department shall license a facility as a private secure facility if the facility:

- (1) meets the minimum standards required under subsection (c);
- (2) provides a continuum of care and services; and
- (3) is:

(A) licensed under IC 12-25, IC 16-21-2, or IC 31-27-3; or

(B) a unit of a facility licensed under IC 12-25 or IC 16-21-2; regardless of the facility's duration of or previous licensure as a child caring institution.

(f) A waiver of the rules may not be granted for treatment and reporting requirements."

Page 19, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 27. IC 31-30-1-2.5, AS ADDED BY P.L.173-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. A juvenile court may not appoint a person to serve as the guardian or custodian of a child **or permit a person to continue to serve as a guardian or custodian of a child** if the person: is:

(1) ~~is~~ a sexually violent predator (as described in IC 35-38-1-7.5); ~~or~~

(2) ~~a person who~~ was at least eighteen (18) years of age at the time of the offense and ~~who~~ committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;

(B) while armed with a deadly weapon; or

(C) that resulted in serious bodily injury; **or**

(3) **was less than eighteen (18) years of age at the time of the offense but was tried and convicted as an adult of:**

(A) **an offense described in:**

(i) IC 35-42-4-1;

(ii) IC 35-42-4-2;

(iii) IC 35-42-4-3 as a Class A or Class B felony;

(iv) IC 35-42-4-5(a)(1);

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- (v) IC 35-42-4-5(a)(2);
- (vi) IC 35-42-4-5(a)(3);
- (vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;
- (viii) IC 35-42-4-5(b)(2); or
- (ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;
- (B) an attempt or conspiracy to commit a crime listed in clause (A); or
- (C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B)."

Page 22, line 11, delete "who is" and insert "who:

- (1) has been convicted of:
 - (A) neglect of a dependent under IC 35-46-1-4; or
 - (B) a battery offense under IC 35-42-4; or
- (2) is".

Page 22, line 12, delete "IC 11-8-8, the" and insert "IC 11-8-8; the".

Page 27, between lines 38 and 39, begin a new paragraph and insert:
 "SECTION 49. IC 31-34-3-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) This section applies beginning October 1, 2009.

(b) If a child is removed from the child's parents under this chapter, within thirty (30) days after the removal of a child from the parents the department shall exercise due diligence to identify and provide notice of the removal to all adult relatives of the child, including relatives suggested by the parent's relative under 42 U.S.C. 671 (a)(32).

(c) Notice under subsection (b) shall not be provided to a relative who is suspected of causing family or domestic violence.

(d) A notice under subsection (b) shall:

- (1) state that the child has been removed from the parents by the department;
- (2) set forth the options the relative may have under federal, state, or local laws, including the care and placement of the child and other options that may be lost if the relative fails to respond to the notice;
- (3) describe the requirements for the relative to become a foster parent; and
- (4) describe additional services available to the child placed in foster care."

Page 30, delete lines 26 through 42.

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Page 31, delete lines 1 through 42.

Page 32, delete lines 1 through 22, begin a new paragraph and insert:

"SECTION 51. IC 31-34-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. **(a)** Evidence that a prior or subsequent act or omission by a parent, guardian, or custodian injured a child is admissible in proceedings alleging that a child is a child in need of services to show the following:

(1) Intent, guilty knowledge, the absence of mistake or accident, identification, the existence of a common scheme or plan, or other similar purposes.

(2) A likelihood that the act or omission of the parent, guardian, or custodian is responsible for the child's current injury or condition.

(b) For purposes of an investigation by the department, if:

(1) a parent, guardian, or custodian had care, custody, and control of the child immediately before the child died;

(2) a law enforcement officer or an employee of the department requested the parent, guardian, or custodian to submit to a drug or alcohol screen test not later than three (3) hours after the death of the child;

(3) the parent, guardian, or custodian did not submit to a drug or alcohol screen test within three (3) hours of the law enforcement officer or employee of the department having probable cause to believe the parent, guardian, or custodian was using drugs or alcohol prior to the child's death; and

(4) the law enforcement officer or employee of the department had probable cause to believe the parent, guardian, or custodian was impaired, intoxicated, or under the influence of drug or alcohol immediately prior to or at the time of the child's death;

the failure to submit to the drug or alcohol test is prima facie evidence that the parent, guardian, or custodian was intoxicated or under the influence of alcohol or drugs at the time of the child's death.

(c) Evidence from a drug or alcohol screen test administered under this section is not admissible as evidence in a criminal proceeding.

SECTION 52. IC 31-34-15-4, AS AMENDED BY P.L.145-2006, SECTION 303, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. A child's case plan must be set out in a form prescribed by the department that meets the specifications

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set by 45 CFR 1356.21. The case plan must include a description and discussion of the following:

- (1) A permanent plan for the child and an estimated date for achieving the goal of the plan.
- (2) The appropriate placement for the child based on the child's special needs and best interests.
- (3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is recommended. If an out-of-home placement is appropriate, the county office or department shall consider whether a child in need of services should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.
- (4) Family services recommended for the child, parent, guardian, or custodian.
- (5) Efforts already made to provide family services to the child, parent, guardian, or custodian.
- (6) Efforts that will be made to provide family services that are ordered by the court.
- (7) A plan for ensuring the educational stability of the child while in foster care that includes:**
 - (A) assurances that the placement in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child is presently enrolled;**
 - (B) the coordination with local education agencies to ensure the child remains in the school where the child is enrolled at the time of removal; and**
 - (C) immediate, appropriate enrollment of the child in a different school if remaining in the same school is not in the best interests of the child.**

SECTION 53. IC 31-35-2-4, AS AMENDED BY P.L.146-2008, SECTION 615, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:

- (1) The attorney for the department.
- (2) The child's court appointed special advocate.
- (3) The child's guardian ad litem.
- (b) The petition must:

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(1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)"; and

(2) allege that:

(A) one (1) of the following exists:

(i) the child has been removed from the parent for at least six (6) months under a dispositional decree;

(ii) a court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made; or

(iii) the child has been removed from the parent and has been under the supervision of a ~~county office of family and children~~ **local office or probation department** for at least fifteen (15) months of the most recent twenty-two (22) months;

(B) there is a reasonable probability that:

(i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or

(ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;

(C) termination is in the best interests of the child; and

(D) there is a satisfactory plan for the care and treatment of the child.

(3) Indicate whether at least one (1) of the factors listed in section 4.5(d)(1) through 4.5(d)(3) of this chapter applies and specify each factor that would apply as the basis for filing a motion to dismiss the petition.

SECTION 54. IC 31-35-2-4.5, AS AMENDED BY P.L.146-2008, SECTION 616, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) This section applies if:

(1) a court has made a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required; or

(2) a child in need of services:

(A) has been placed in:

(i) a foster family home, child caring institution, or group home licensed under IC 31-27; or

(ii) the home of a person related (as defined in IC 31-9-2-106.5) to the child;

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as directed by a court in a child in need of services proceeding under IC 31-34; and

(B) has been removed from a parent and has been under the supervision of the department **or county probation department** for not less than fifteen (15) months of the most recent twenty-two (22) months, excluding any period not exceeding sixty (60) days before the court has entered a finding and judgment under IC 31-34 that the child is a child in need of services.

(b) A person described in section 4(a) of this chapter shall:

(1) file a petition to terminate the parent-child relationship under section 4 of this chapter; and

(2) request that the petition be set for hearing.

(c) If a petition under subsection (b) is filed by the child's court appointed special advocate or guardian ad litem, the department shall be joined as a party to the petition.

(d) A party shall file a motion to dismiss the petition to terminate the parent-child relationship if any of the following circumstances apply:

(1) That the current case plan prepared by or under the supervision of the department under IC 31-34-15 has documented a compelling reason, based on facts and circumstances stated in the petition or motion, for concluding that filing, or proceeding to a final determination of, a petition to terminate the parent-child relationship is not in the best interests of the child. A compelling reason may include the fact that the child is being cared for by a custodian who is a parent, stepparent, grandparent, or responsible adult who is the child's sibling, aunt, or uncle or a person related (as defined in IC 31-9-2-106.5) to the child who is caring for the child as a legal guardian.

(2) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department has not provided family services to the child, parent, or family of the child in accordance with a currently effective case plan prepared under IC 31-34-15 or a permanency plan or dispositional decree approved under IC 31-34, for the purpose of permitting and facilitating safe return of the child to the child's home; and

(C) the period for completion of the program of family services, as specified in the current case plan, permanency plan, or decree, has not expired.

(3) That:

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- (A) IC 31-34-21-5.6 is not applicable to the child;
- (B) the department has not provided family services to the child, parent, or family of the child, in accordance with applicable provisions of a currently effective case plan prepared under IC 31-34-15, or a permanency plan or dispositional decree approved under IC 31-34; and
- (C) the services that the department has not provided are substantial and material in relation to implementation of a plan to permit safe return of the child to the child's home.

The motion to dismiss shall specify which of the allegations described in subdivisions (1) through (3) apply to the motion. If the court finds that any of the allegations described in subdivisions (1) through (3) are true, as established by a preponderance of the evidence, the court shall dismiss the petition to terminate the parent-child relationship."

Page 33, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 53. IC 31-37-17-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8. Unless prohibited by federal law, a probation department and:**

- (1) the local office of family and children;**
- (2) a local office; and**
- (3) the department of child services;**

may exchange information for use in preparing a report under this chapter."

Page 34, between lines 2 and 3, begin a new line block indented and insert:

"(7) A plan for ensuring the educational stability of the child while in foster care that includes:

- (1) assurances that the placement in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child is presently enrolled;**
- (2) the coordination with local education agencies to ensure the child remains in the school where the child is enrolled at the time of removal; and**
- (3) immediate, appropriate enrollment of the child in a different school if remaining in the same school is not in the best interests of the child."**

Page 39, line 41, delete "IC 31-34-1-6; IC 31-34-1-16; IC 31-34-10-7." and insert "IC 31-9-2-21; IC 31-9-2-80; IC 31-9-2-103; IC 31-9-2-113; IC 31-38."

Page 40, after line 21, begin a new paragraph and insert:

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"SECTION 62. [EFFECTIVE UPON PASSAGE] IC 31-30-1-2.5, as amended by this act, applies to proceedings pending on or initiated on or after the effective date of this SECTION.

SECTION 63. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 365 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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